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SENATE

SELECT COMMITTEE ON SOCIO-ECONOMIC
CONSEQUENCES OF THE NATIONAL COMPETITION
POLICY

**Reference: Socio-economic consequences of the national competition
policy**

FRIDAY, 16 JULY 1999

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SENATE
SELECT COMMITTEE ON THE SOCIO-ECONOMIC CONSEQUENCES OF THE
NATIONAL COMPETITION POLICY

Friday, 16 July 1999

Members: Senator Quirke (*Chair*), Senator Crane (*Deputy Chair*), Senators Coonan, McGauran, Mackay, Margetts and Murray

Senators in attendance: Senators McGauran and Quirke

Terms of reference for the inquiry:

To inquire into and report on the National Competition Policy, including:

- (a) its socio-economic consequences, including benefits and costs, on:
 - (i) unemployment,
 - (ii) changed working conditions,
 - (iii) social welfare,
 - (iv) equity,
 - (v) social dislocation, and
 - (vi) environmental impacts;
- (b) the impact on urban and rural and regional communities;
- (c) its relationship with other micro-economic reform policies; and
- (d) clarification of the definition of public interest and its role in the National Competition process.

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Committee met at 9.28 a.m.

CHAIR—I welcome everyone to this public hearing of the Senate Select Committee on the Socioeconomic Consequences of the National Competition Policy. The terms of reference agreed by the Senate require the committee:

To inquire into and report on the National Competition Policy, including:

- (a) its socioeconomic consequences, including benefits and costs, on:
 - (i) unemployment,
 - (ii) changed working conditions,
 - (iii) social welfare,
 - (iv) equity,
 - (v) social dislocation, and
 - (vi) environmental impacts;
- (b) the impact on urban and rural and regional communities;
- (c) its relationship with other micro-economic reform policies; and
- (d) clarification of the definition of public interest—

The committee is required to present its report on the first sitting day of October 1999.

Before we commence taking evidence, let me place on the record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence which is given before it. Parliamentary privilege, for those who have not appeared before a committee before, means special rights and immunities attached to parliament or its members and others necessary for the discharge of the functions of the parliament without obstruction and without fear of prosecution. Any act by any person which operates to the disadvantage of a witness on account of evidence given by him or her before a Senate committee or any other committee of the parliament is treated as a breach of privilege and you are accordingly protected.

[9.30 a.m.]

HOLLINGWORTH, Ms Deborah, Senior Legal Policy Adviser, Municipal Association of Victoria

SPENCE, Mr Robert Norman, CEO, Municipal Association of Victoria

CHAIR—We do prefer all evidence to the committee to be given in public, but should you at any stage wish to give part of your evidence or answers to specific questions in private, you may apply to do so and the committee will consider your request. I now invite you to make a brief opening statement and, at the conclusion of your remarks, we will invite committee members to ask you questions.

Mr Spence—Thank you for the opportunity to appear before you today. There are three issues that we would like to talk about in our brief overview: the organisation we represent, how NCP applies in Victoria and how NCP and CCT, in particular, have impacted on local government.

The MAV is a statutory body established in 1879. It is our 120th birthday in a couple of weeks. We are required by statute to represent all councils in Victoria. We also have this quirky arrangement where our members pay us fees and we have 74 financial members of the 78 councils. There are 43 rural and 31 metropolitan councils.

The issues in relation to the NCP in Victoria are probably a little different from those in other states. In Victoria, as you would be fully aware, the state government has embraced NCP. One of the differences in Victoria is that, in terms of local government, the state government has embraced CCT as a component of national competition policy. So compulsory competitive tendering is a component of national competition policy for local government.

In relation to NCP obligations for local government, there are a number of key components which I will just run through. There is the requirement to comply with the Trade Practices Act, and that is an issue which requires councils to undertake audits and have in place compliance strategies. That has been operating since July 1996. Councils are required to comply with competitive neutrality—that is, to review corporate structures and determine which model they wish to apply, to apply competitively neutral pricing principles to business activities and to in-house bids. Councils are required to report annually on the implementation of competitive neutrality and any substantiated allegations of non-compliance, and they are required to report that to the Office of Local Government.

Councils are also required to review their local laws and all new local laws were required to comply with NCP as at July 1997. There is a review under way at the moment, to be completed in June this year, which requires all existing local laws to be reviewed in relationship to the policy. In terms of local laws, there is an annual reporting requirement. With compulsory competitive tendering, councils are required to tender 50 per cent of their total expenditure. That requirement has been in place since 30 June 1997, so annually the councils have to go through a process where they can actually guarantee that 50 per cent of their total expenditure has gone through a competitive process.

These commitments are contained in the Competition Principles Agreement which has been established between the state and local government. As a consequence of that agreement, councils receive payments from the state as a share of the state's distribution of national competition payments. Local government in Victoria get nine per cent of the Victorian proportion of the competition payments. They get that distribution on a council by council basis by signing off and certifying that they have complied with the agreement.

Concerning the impact specifically of NCP on local government, in terms of Trade Practices Act compliance we would argue that it is entirely manageable and good practice. I do not think there are really any issues with that point.

The local laws review would say that it is really too early to identify the outcomes of the implications for local laws in the application of national competition policy. The review was only completed in June 1999, although if you looked at the negative, the negative would be that there has been a significant cost in running that process. In many cases now the councils have moved away from using permit systems to regulate and are moving towards codes of practice law. We would argue in that area that, although we do not have a clear view on what the outcomes might be, they do not appear to be onerous or too significant.

On the question of competitive neutrality, it only applies to business activities. In Victoria this has wide application because of CCT. The most benign impact really is that the application of competitive neutrality actually results in much more effective costing and are pricing systems in relation to the services that councils have delivered. In the past, prior to CCT, you could argue that the systems were not that robust and that pricing was not a major issue for local government because the revenue streams came out of rates. However, with this policy, and through CCT, we are seeing much more robust and commercial processes.

In terms of the pricing policies the main issue is: can councils apply universal subsidies to council services where they run at a loss and where there are private sector competitors? There are examples in Victoria where there have been complaints lodged by private sector operators in the area of child care, and there has been some tension in the area of leisure centres and swimming pools where councils have been operating or providing a subsidised service to the community.

With compulsory competitive tendering, it is quite an interesting situation that we are at a point where no-one really understands the costs or benefits of the application of CCT. The work has not been done, neither by the state nor by local government. There are gains in the CCT process, and there are problems and costs as well.

Some observations about some of the outcomes, just quickly, are that we are now at a point where we can more clearly identify costs. There is greater transparency and community accountability through this process. It enables councils to make more informed judgments about continuation of the services and how a service should be provided.

There are now specifications for every service that has been tendered and these specifications are in quite minute detail. There are service delivery standards and accountabilities in place. Labour costs are also very clearly identified. Most in-house teams

have moved away from award conditions by entering into industrial agreements called local work area agreements. These agreements are more closely aligned to the private sector environment in terms of costing. There have been identified labour gains, certainly, and greater workplace flexibility.

The processes in place in the organisations are also much more robust in the tendering and assessment of tendering processes. Organisations are now putting significant resources into tender writing, tender documentation, proper organisational procedures, evaluation criteria for tenders, and so on.

Organisation structures have changed. We have moved from the blob model of management, a few functional lines, to a fully blown purchaser-provider model in most councils. There is much more integrity in the processes that are run because of these applications.

In terms of the problems that have been faced through the CCT process—and I understand you will be hearing from two councils following our presentation that, I suspect, will give you much more detail on this—it is a new way of providing and determining services which have costs to implement and maintain, and we have yet to really understand the consequences of that. You could argue that the costs in moving to CCT and by amalgamation in Victoria are well in excess of \$300 million, but I would consider it is closer to \$500 million. There are significant benefits on the other side but they are yet to be quantified.

In some cases, because of inexperience, there have been failed tenders, or tenders that have been poorly developed and as a consequence service standards are variable. They have not specified all the components of services and that has had an impact. In some cases councils did not establish appropriate evaluation criteria, and the service provision by contract makes the processes much more legally driven. As a consequence, councils really are under significantly more pressure in the way they manage their activities.

If you look at the local impacts of CCT, we would argue that the greatest impact has been seen in the small rural communities or small rural councils. There is an argument that says that with the loss of tenders we have seen the move of service provision away from the local community into regional structures or into larger communities. That has had arguably significant impacts at a time when telecommunications, electricity and so on are moving out of small rural communities with more centralised service provision. That concludes my introduction. Thank you.

Ms Hollingworth—Perhaps I could make some comments about one of the terms of reference of the inquiry: the application of public interest considerations. It is interesting to us to note that one of the significant recommendations to come from the Productivity Commission's inquiry into NCP is the identification that there is a need for greater clarity about how the public interest test is to apply as a component of NCP. That is certainly an observation that the MAV would make as well.

With respect to NCP, the public interest test has really not been particularly well understood at all, and sometimes is not in evidence. That is most clearly the case with the

application of competitive neutrality. As previously mentioned, where competitive neutrality has its greatest bite for local government is not so much in the requirement to implement good costing systems and accounting—we would all agree that that is a matter of good practice—it is more in a situation where a council has identified that there is some public interest in providing community services such as child care or a swimming pool, the two cases that have been cited. Both of those facilities are difficult to run on a profit basis, and in some instances there may also be private providers in the marketplace.

That raises real issues for local government as to the extent to which it is appropriate to say it will subsidise its own council run service. How competitive neutrality operates is that, once a determination has been made that the service is a business activity, then not only does the costing principles need to apply but those principles flow on into any pricing structure. So it is less likely to have an impact where there is no pricing policy that is relevant, but it is certainly very much the case when councils have to determine what appropriate pricing structures are.

We would advocate that perhaps there really is a need here to do some thinking about how public interest should be measured in those circumstances. The concerns that some councils have expressed are that perhaps it means it is not possible to invest in public operations. We are familiar with investment in public hospitals that will run in tandem with privately owned enterprises. They are issues that clearly have been resolved elsewhere, but they are very much at the forefront for local government.

The other element of the public interest issue that I think we could perhaps raise is with respect to compulsory competitive tendering. While in Victoria that is a component of NCP, it is a separate policy. It is enshrined in the local government act, and it is that legislation that councils comply with when they meet their CCT targets. There are in fact no public interest criteria, as it were, in that legislation, although councils can include public interest matters when they decide how they meet their 50 per cent target.

This is actually an issue that the MAV is working on. We have commissioned the preparation of a guide which I think has been referred to in material that is before the Senate. To the extent that this fits in with your timing, we would certainly be interested in you having a look at that, because the guide will actually provide assistance to councils as they apply these sometimes competing questions about public interest and competition.

CHAIR—Thank you very much.

Senator McGAURAN—When you speak of the compulsory 50 per cent with regard to competitive tendering, is that 50 per cent of individual projects?

Mr Spence—Of total budget.

Senator McGAURAN—So it is a dollar figure?

Mr Spence—If a council has an \$80 million budget then 50 per cent of that would have to go through the competitive process.

Senator McGAURAN—What, generally speaking, are councils meeting of that 50 per cent? Are they going way beyond it—to 90 per cent?

Mr Spence—Some are really high, up around 80 per cent. They have taken the view that they will put the whole of their organisation through the process. Others are around the 50 per cent mark. There are some who are still struggling to achieve the 50 per cent, and the government has not been too tough on those councils.

Senator McGAURAN—What separates them?

Mr Spence—I think it is really an attitude about the way they want to operate the business. Some councils are of the view that they want to retain a work force internally to provide service, that they prefer to approach it in a less commercial way. I suspect—and this is opinion only—that those councils would generally be the ones that are not so financially stressed that they can deal with it.

Senator McGAURAN—So the wealthier councils are the ones who can meet the compulsory competitive tendering test the best?

Mr Spence—I would say that they should be able to meet it more effectively than the others, although there are some that are quite slow in achieving the targets. To actually get to 50 per cent requires an enormous effort inside the organisation to specify every service and to develop detailed tender documents. It sounds simple. For example, grass cutting in parks sounds like a fairly simple exercise, but you are actually getting down to determining when the grass gets cut and what height it gets cut to.

Senator McGAURAN—But the big ticket items, of course, are garbage and things like that. That would get you to almost 50 per cent of your budget straight up, wouldn't it?

Mr Spence—No, miles away. Garbage will pick up a small component for you. I have just come from running a council, one that had an \$80 million turnover, and basically we had to put 80 per cent of our service areas through the CCT process to get to the target. Councils that are financially strapped have a smaller component of capital works expenditure generally, and capital works expenditure is part of the CCT process. If your capital works expenditure is low then the requirement on your service delivery side is higher in terms of getting it through CCT.

Senator McGAURAN—So obviously it would be the rural councils that would have the greatest difficulty in meeting this target?

Mr Spence—Certainly—the smaller rural council. If you took Yarriambiack, for example, or Buloke, those tiny councils are turning over probably \$80 million a year, and most of that is for road construction. To get to 50 per cent, they are basically putting everything through the loop.

Senator McGAURAN—Just for the record—and I think I know the answer to this—are they competitive tendering social services also?

Mr Spence—That is right. There have been some interesting consequences of that. My own experience has shown that, with home care under the HACC program, because there are some private sector competitors in there who are very aggressive, we have seen salary and wage rates drop significantly to the point now where we are having difficulty retaining continuity in employment. The rates are down around \$11 or \$12 an hour at the bottom end. The complexity of that for service delivery is that the aged like continuity in who they deal with; they do not like people changing all the time, yet you cannot hold quality employees.

Senator McGAURAN—Do you have an example of where public interest actually has been initiated?

Ms Hollingworth—In CCT, where it has been initiated as a decision?

Senator McGAURAN—Yes.

Ms Hollingworth—There are councils that have decided to completely quarantine certain areas, particularly the community service-human service sections of their council responsibilities, because the council has a formal policy that they are services that should be delivered without having to go through the competitive process.

I think it is probably important to note that, while the local government act requires that 50 per cent of council expenditure should be subject to a competitive arrangement, that does not preclude that competitive arrangement from being an in-house agreement. In other words, if there is an existing work force within the council that is prepared to enter into the competitive process and bid for the service, if they are successful they will continue to do that under what is called an in-house agreement which is in fact an employment agreement between the council and its work force.

But, of course, there is no guarantee when a council commits a service to be tendered as to who ultimately will be the service provider. It may be the in-house team, if their bid is competitive, or it may be an external contractor. That is not known, obviously. So those councils that have made a policy decision not to put a particular service through the competitive process—and I can think of one metropolitan council that has made a policy decision that no human services will be tendered—

Senator McGAURAN—Which one?

Ms Hollingworth—That council is Port Phillip Council; that is a matter of public record. That is a decision they have taken. There are a range of issues, but one of them is that they have concluded that it is preferable that those services be provided by the existing work force.

Senator McGAURAN—That is a perfect example of where compulsory competitive tendering meets public interests. Sooner or later they had to meet and clash. Which one wins?

Ms Hollingworth—Yes, that is the question—

Senator McGAURAN—Public interest wins in the end if used intelligently, I suppose.

Mr Spence—Yes, apart from those councils that lack the capacity to be too discretionary about what they put through the process to get to the 50 per cent. I would say that it is much more complex for a smaller council than it is for one like Port Phillip, which is a very big entity that has a lot of capacity to actually—

Senator McGAURAN—Which areas does Port Phillip cover?

Mr Spence—It covers around St Kilda, Port Melbourne and part of old South Melbourne. It is a very big entity covering a very wide range of services. They have, I think, a greater capacity and also greater power to actually manage the process than the small ones have.

Senator McGAURAN—Would you say that is a perfect example of a council that has pushed the limits of public interest?

Ms Hollingworth—They are an example of a council that has actively engaged in that question. It is not the only council, and I would not necessarily say that they have pushed the limits of it either. There are other councils who, getting close to the second round of compulsory competitive tendering, are engaging their thinking in another way on this question; they are thinking about what sort of percentage target the council should responsibly be meeting. To answer that question, they are looking at best value outcomes for their community.

The questions they pose themselves are: ‘What are our service obligations to our community, and what areas should we be operating in?’. Once they have answered those questions, they will ask the questions: ‘What is the best way of providing that service, and what are the risks here in exposing particular services to the competitive process?’. Out of that series of questions fall some of the answers as to which services will then be tendered.

In fact, the council have observed that—an off-the-record observation—in some instances it might have been preferable for their corporate services to have been through the competitive process. But, in many other instances, it is often the interface services like garbage and home care—where council is actually directly providing a service to the community—that have been exposed to the competitive process. In actual fact, there is nothing to stop a council from tendering its payroll, its human service areas or its record management, and it could meet its 50 per cent targets by looking at those sorts of services and functions.

What we are seeing in Victoria is a complete rethinking, first, of how council should responsibly look at service delivery and, second, of how CCT fits in. It will be very interesting to see whether the outcomes are substantially different.

Mr Spence—Thinking is really advancing quite quickly now. But CCT is a blunt instrument; it really is. Why 50 per cent? Is 50 per cent appropriate for a council that has a population of 5,000 or 4,000 compared to a council that has a population of 180,000 and does not have variations in revenue that go from \$7 million across to \$140 million? I know

the government is giving thought to the future of CCT and what it might look like in its next guise.

CHAIR—The staff want me to ask a couple of quick questions. Before we go on, can you tell us, as a general principle, if it is always the lowest tender that wins?

Mr Spence—The answer is no. The decision criteria will be established by the council. Issues of price and quality of service are considered in most cases. Some councils would only consider on price, but I would hope that is becoming a less rather than more common practice. Generally, the councils would be considering on quality, price, capacity to deliver the service and past experience in the sort of area that is being tendered in.

CHAIR—Would the public interest considerations be disregarded by the more cash-strapped councils?

Mr Spence—I do not believe so. What we have seen in CCT is that the consequences of outsourcing the services are quite significant financially in a lot of cases because of the redundancy and superannuation costs of exiting your staff. In Victoria, we made the now famous \$300 million black hole in the superannuation scheme because of the number of people who exited local government through the amalgamation and first-round CCT process. Some councils that are cash strapped are much more sensitive, in dollar terms, to the implications of losing staff and the up-front cost of doing that, which is quite significant. If you had 50 staff that are going to go, meeting your redundancy costs the day they exit the place would be very high.

CHAIR—Has CCT restricted the flow of information to the public by reference to commercial-in-confidence?

Ms Hollingworth—It certainly has the potential to do that. It is incumbent on each council to make adequate provision for the disclosure of information—if that is in the possession of the contractor—to the public. But most council contracts would be a matter of public record, with the exception of price-sensitive information—information about the tender process itself. Anyone could get hold of the specifications and, in general, the contract terms. I think it is a little different in local government to what it is at the state government level.

Mr Spence—A typical process for developing a tender would be to: run community consultations on the community's expectation of the service, as a starting point; actually run the basis of the specification through a number of consultation rounds before it went out; and report back regularly to council on the performance of the contract. It has the potential to be much more robust than what we had before, when the community would not really get a handle on a specific service and what was happening with it.

Ms Hollingworth—It is clearly an issue that councils have to be aware of: the public's right or entitlement to access information that is of interest to it about how a service is delivered and how much it costs. In any event, it would generally be seen through the budget process, by the allocations that are listed, as to what those service costs are. On the other hand, there is the question of data protection: information in the hands of contractors—which

is the other side of access to information—which is the subject of draft legislation here in Victoria. They are not easy issues; they are ones that councils are really working their way through and that come to the fore as a result of a contracting process.

CHAIR—Ten years ago or more, if I had come to Victoria I would have found that almost every council would have had an in-house work team. I would have found a blue-collar work force of sizeable proportions. And I probably would have found that a number of them would have dealt with their own garbage rather than have it go out to contract. This must have had a significant impact on direct employment within the local government sector.

Mr Spence—It certainly has. The rough estimation is that the numbers have dropped by something like 15,000.

CHAIR—From what?

Mr Spence—From 30,000 down to about 15,000 or so. That is due partly to amalgamations, because there was a big flush out in the amalgamation process, and partly due to the adjustments through the CCT. They are rough numbers.

CHAIR—So all in all there has been a sizeable reduction, particularly in the blue-collar work force?

Mr Spence—Yes. It is interesting that the blue-collar areas were the ones that generally went through the process first. The ones that had a much more commercial interface—garbage, road construction and road maintenance—were where it occurred first, where there was competition out there and it was relatively easy to put the specifications together. Of course, in some councils garbage had been tendered before CCT, so the principles were there. The blue-collar unions were quite aggressive in getting on the front foot in dealing with this process. They wanted to be there and ensuring that they got the best outcomes for their members.

Ms Hollingworth—You talk about the employment consequences. One of them is that in many instances the staff who would have been part of the council work force, if a service was tendered and outsourced, invariably gained employment with the contractor that was providing the council's service. That is the case in blue-collar areas and also in areas like home care. The work force remains the same but they are subject to different employment arrangements and different employers. So there has been the transmission of business issues.

That is not to say that there are not people who did not pick up work. Anecdotally we know that there were people who lost employment and have not found it as a result of amalgamations and compulsory competitive tendering. But, by and large, the contractors are now employing people who were council staff.

CHAIR—Before I leave that, you said before that there are 78 local government bodies here in Victoria. What was it before the amalgamations?

Mr Spence—It was 210.

CHAIR—So it has gone down to about a third.

Mr Spence—Yes.

CHAIR—Would a lot of them have been particularly small ones in the country?

Mr Spence—Yes, some of them were tiny.

CHAIR—The impact of the number of people who are now either working for someone else, or not working at all, would be felt much more in country areas than it would have been in the city area. Is that correct?

Mr Spence—We do not have the data to verify that but anecdotally that is—

CHAIR—Would it be fair to say that a good number of those 15,000 would come from regional areas in Victoria?

Mr Spence—A significant proportion of this has been borne by metro councils in right sizing and downsizing. I will go to the council I was running. When I took it over it had 1,300 equivalent full-time staff. It now has 570 equivalent full-time staff.

CHAIR—Would most of them be white-collar people?

Mr Spence—No, white and blue, delivering the same services. Very little has actually been lost to the private sector. It has all been through a competitive process. The people have looked at the work they are doing in a particular area and they have redesigned their jobs. The number of employees has dropped enormously. If you take garbage service, for example, there was a change to technology by moving to one-armed bandits from three-man crews. We went from 22 garbos down to 11, and the lift rate went from about 750 bins up to 1,300 bins a day.

The guys are on a bonus scheme and it is my view that we will never add another garbage truck in this municipality because these guys will continue lifting as they are on a good deal. They get well paid and they get a bonus for lifting above a given work rate. We have a team of really excited and interested guys who love their job, are happy working with absolute quality equipment, and the service is very good. When the service is tested in the community for community satisfaction we are getting very good results. The benefits of some of this stuff are quite positive if it is managed properly. People are doing the same job year in, year out. That is at Brimbank in the western suburbs.

That is only one example. You will hear from other councils that are here today and they will give you some other positive examples, but they will also give you some negatives. At Brimbank, home care is now a struggle. We had a good service before but we have now got a service, because the wage rates are low, lower than the people want, that is disrupted. It is hard to recruit people.

Using a blunt instrument to get the outcomes through CCT does not always get the good outcomes. It requires sensitive, careful thought by the councils in actually managing the

process. One of the dilemmas we have had in Victoria is that every time a council makes what it thinks is a rational decision but it goes against what the state would consider to be rational, you end up with an inquiry. That is a bit sad.

CHAIR—You get a bit what?

Mr Spence—You end up with an inquiry as to what you are doing and why it has happened. The tender gets reviewed and you get dragged over the coals. Therefore, some councils have been very cautious about the decisions they make. I think that sort of pressure has pushed some councils to making decisions on lowest cost options.

CHAIR—Are those inquiries at the state government level or at the council level?

Mr Spence—At the state government level.

CHAIR—There must be a sizeable number of blue-collar workers and white-collar workers in the bush who certainly had relied on those council jobs, but they are not there any more. Wouldn't a lot of the organisations that today take up some of the work that was done by councils before be in the metropolitan area?

Mr Spence—Some of them would be in regional cities where you have got large communities. The service would move into areas where there is a capacity to provide a more extensive service, or to where there is the size of business to actually tender quite aggressively.

This issue is a really complex one in terms of changing the way a sector operators. It has had some really positive outcomes, but it has also had some negative outcomes. We are at the point where we need to move to a more sophisticated tool and away from this very blunt instrument. The issues around public benefit are right at the cutting edge of that, and we are trying to get a handle on that at the moment.

CHAIR—If the work force has halved over the last 10 or so years and things are done much more efficiently now, if the same amount of work is done by a much fewer number of people than it was before, how has this affected the rate structure?

Mr Spence—Between 1994 and now, rates have fallen by about 17 per cent real. It is quite significant. That is a bit of a smoke and mirrors job because whilst the rates have come down, councils still have a significant liability in terms of infrastructure maintenance that is not yet fully accounted for. A piece of work that has recently been done says it is somewhere between \$250 million and \$300 million a year. That is not easily seen in the system.

CHAIR—This is roads and things?

Mr Spence—Roads, trains, footpaths; the lag effect. This is not unique to Victoria. I would say that Victoria is actually leading by a mile in the work that has been done to identify the infrastructure issues. In a way, we are heading towards a collision position in Victoria where we have had very low ratings since 1993-94. We have now this identified

infrastructure gap that needs to be solved and we have had very stringent rate control through that period from 1994. The pressures are coming together. We have had strong pressure from the state to clear debt, so effort has gone into debt clearing and arguably away from infrastructure maintenance and capital works.

CHAIR—Do many of your members actually go out and compete for contracts against other councils?

Mr Spence—Some do. Some of them compete against the private sector. My old council has won the job to maintain the Tullamarine airport surrounds. The economies of scale out of doing that work and doing the council work together mean they can provide more effective equipment and have a larger work force. You get the community benefits into the council and you get the economies of scale. There are risks in that, though, because the council is in fact bearing the risk on the contract.

You are getting also some regional models starting. Hobsons Bay Council, for example, has become a specialist in the delivery of meal services to multicultural communities, and they provide quality meals to a big slab of the western region councils. The other councils do not have meal services. It has all been won into Hobsons Bay and that council is delivering a very efficient system. So we are seeing some economies occur with the combining of service delivery through one entity into a range of others and you are seeing some councils moving into provision of service outside their normal scope.

Ms Hollingworth—That is an issue that is quite widely talked about. It may in fact provide a way in which councils can provide services to neighbouring municipalities where those municipalities no longer have an internal work force that is doing meals on wheels, street cleaning or whatever the service is. We have seen in one area, street cleaning, an example of where an in-house team is trying to develop its capacity and put in bids to provide street cleaning to other municipalities. There has been a cautiousness demonstrated by the councils that the bid is being presented to because they are concerned about the risk involved in giving work to an in-house team of another municipality when that in-house team itself does not have any guarantee of work beyond the life of its in-house agreement. So, while in theory this presents a fantastic opportunity for some councils to really develop themselves in a particular market, in reality we are going to have to work through the logistics of an environment that has contracts that have a particular life. One municipality is not going to take on street cleaning from its next door neighbour if halfway through the life of the contract the neighbouring council is no longer employing its work force.

In addition to that, for some councils there are questions about whether they should actually be providing services beyond the municipal boundaries, whether that is actually a council's responsibility and core business to be operating in the marketplace like a private sector operator in a very commercial way. That question is really far from resolved.

CHAIR—You mentioned before council competitive facilities, and you used swimming pools as an example, and I suppose gymnasiums and a number of things like that could also be included. I have never known of a swimming pool making a profit anyway.

Ms Hollingworth—That is right.

CHAIR—Someone came to me to seek my assistance to set up the first commercially operated swimming pool that I know about, and they have not come back in the last couple of months. I think the problem is that they have been around to the bank in the meantime. Do you have much of this?

Ms Hollingworth—Yes. Where they are likely to be successful is where they are combined with other gymnasium or leisure facilities. That is a matter that is highly contested by private sector leisure operators—and you may know about this—who are questioning whether it is legitimate for a government agency or a council to have a fully integrated leisure facility, including a swimming pool, which is running at a profit; in other words, the leisure facility subsidises the swimming pool itself, which we all know will run at a loss unless you start charging people \$10 for a swim.

There was a recent challenge in the ACT that perhaps has come to your knowledge. We understand that there are private operators of leisure facilities here in Victoria which are really interested in the outcome of that and will pursue this issue. It puts considerable pressure on councils which say, ‘Look, it is actually a good thing that we have a public swimming pool and public leisure facilities.’ But it does mean that, if they want to do that, they are going to have to be fairly careful that they are not doing it across the road from a private competitor, that they have done their market analysis very carefully, and that they are very clear about what the service needs are in the community and, particularly, how they set their pricing structure.

CHAIR—What about the size of some of the maintenance contracts? We have heard evidence in Western Australia that the state government there parcels up very large contracts for the maintenance of country roads. They are so large, in fact, that even a council that is number 15 out of 70 or so councils in Western Australia—or whatever the number is—has no hope of either understanding the contract or participating in it because of the length, time, size and scope of the contract. Do you have these sorts of problems here?

Mr Spence—I think we have less of those problems here. I would argue that there is a pretty good relationship between Vic Roads and the councils. Vic Roads has just brought down an edict that it will take control of every contract over \$3 million because of some of the difficulties councils have had in managing those. Tensions remain in some areas, but it is not an issue that comes to me as a major problem.

CHAIR—What is happening in Western Australia is that road maintenance and road building, to the extent that it was done in country areas before, are now being done by drive-in and drive-out metropolitan operators. Is that the practice here in Victoria? Do your members still get a fair piece of the action?

Mr Spence—I would not say that they get necessarily a fair piece of the action. Each council decides whether it wants to be in there doing it. I have not put a lot of work or thought into this, but the feeling I get is that councils are making the decisions as to whether or not they want to do this work. They need to be cautious about being too dependent on Vic Roads supply to keep a work force alive.

CHAIR—Thank you very much for giving evidence today.

Proceedings suspended from 10.24 a.m. to 10.39 a.m.

CLARK, Mr Christopher John, Contracts Officer, Greater Shepparton City Council

FRANCIS, Mr John Raymond, Director, Finance and Corporate Services, Greater Shepparton City Council

STEPHENS, Mr Andrew, Executive Officer, Economic Development, La Trobe Shire Council

CHAIR—We do prefer all evidence to the committee to be given in public, but should you wish at any stage to give part of your evidence or answers to specific questions in private you may apply to do so and the committee will consider your request. I now invite you to make a brief opening statement, and at the conclusion of your remarks we will invite committee members to ask you questions.

Mr Stephens—Thank you, Senators. We have agreed among ourselves that I will quickly run through an overhead slide presentation that will deal with the effects of national competition policy on our regional economy. Shepparton City Council will then make some remarks and we are available for questions, as you suggest. I would like to offer the apologies of our Mayor, Councillor Lorraine Bartling, and our Chief Executive, Penny Holloway, who had hoped to be here today. In fact, it is a measure of what is going on in our community that a few days ago Eastern Energy announced the loss of 35 jobs in Traralgon. In fact, our mayor and chief executive are meeting at the moment with senior management from that organisation to negotiate on that point. Obviously, that is an important issue for our community at the moment.

We would like to thank you for the opportunity to contribute to this important inquiry and to make some opening observations. In terms of national competition policy, La Trobe Shire Council is not necessarily typical of all rural councils. We are the third largest municipality in Victoria outside Melbourne and Geelong and are, in effect, the regional capital of Gippsland in terms of population, administration, employment, education and recreation. We are a bit like Ballarat or Bendigo, very similar in population; we just look different. That means our experience has been somewhat different in terms of our community and in its effect on internal council activities.

Almost certainly we are the most dramatic but until recently little recognised example of national competition policy at work in terms of our regional economy. We also want to put on notice that we do not believe that our community fits the normal pattern of an irrevocably declining region. In other words, the economic difficulties we have had we believe are due to particular circumstances. If the policy settings are right, we believe that our community actually has the capacity for renewed growth within an environment of national competition policy.

As I said a moment ago, we have suffered a dramatic turnaround due to restructuring, not all driven by national competition policy specifically but certainly driven by the processes of restructuring. The Latrobe Valley grew very rapidly after 1945. As an example of that, the town I live in had a population of a few hundred in 1945. It now has a population of around 17,000—extremely rapid growth. However, over the last decade we have suffered from a succession of major public sector investment and general rationalisation of activities, which

has happened throughout rural Australia. The Eastern Energy example I mentioned is typical of that. Eastern Energy has taken customer service and billing staff from Traralgon, centralising them in Melbourne, with the loss of 35 jobs. That sort of thing has been going on throughout rural Australia and is still going on.

The really big effect has been the rationalisation and privatisation of the electricity generation industry. Over 6,000 direct jobs were lost in the power industry in around a decade, which equates to roughly 10 per cent of our total population and a loss of something like 18,000 jobs overall. In a community of around 70,000 people, that is an extraordinary level of job loss.

The rationalisation and privatisation of the electricity industry offers a dramatic example of national competition policy in operation. Our local community believed that the government virtually changed the rules with severe disruption to people's lives and expectations. Over a number of years we had been led to believe that there would be continuing expansion in the electricity industry. There was a report released by the State Electricity Commission a couple of decades ago predicting the construction of 21 power stations. That now appears laughable. Nevertheless, a whole system of infrastructure growth was built up around that. There is excess water supply and there is an excess supply of roads, housing and what have you built around an expectation of growth. Generations of people had expected to receive secure employment and there was a whole system of tertiary training built around that. Then, virtually overnight, that all changed.

This resulted in a great loss of local skills and engineering resources. One finds former Latrobe Valley engineering people, for example, working all over the world. You will run into them in the most unexpected places. There are ex-SEC people working in Greece and in South-East Asia. The skills base that had been built up over half a century has been dispersed to a certain extent. We still have some of it, but a lot of it had to move.

Also, there was a virtual cessation of training programs that were conducted under the State Electricity Commission. This means that the privatised electricity companies are, in effect, running down the human capital base. They are aware of that, but it is much more difficult for half a dozen privately owned generators to mount a major training program than it was for a single unitary entity. Individual generating companies do not necessarily have any commitment to making themselves a local emergency response capability. It is not impossible to believe that, if a Longford gas crisis type eventuality occurred in the electricity industry, we are probably not as well suited as we once were.

However, as I said a moment ago, we do not necessarily fit into the pattern of high change and low growth, for example, as was identified in the recently released Productivity Commission draft report on competition policy. It identified large parts of Australia as 'high change' and 'low growth', and you could not see terribly many promising signs that that was going to change. We believe that, in theory, the Latrobe Valley has a lot of assets that are positive. We lie in the overall coastal zone of Australia. We are close to Melbourne. We have considerable existing local critical mass in population and infrastructure, excellent comparative advantages and an ability to sustain, or at least support, a larger population and industry base.

We believe the reasons for low growth are fairly specific, and they are the major industry restructuring without a proactive adjustment program, which we have described. I think the latter point is important. The restructuring process in our area was primarily driven by government and therefore, in theory, it would have been possible proactively to put in place measures to address that. By and large, that did not happen. We also believe there are some long-term structural issues in the Gippsland region which are important for the whole region.

The Gippsland region is relatively isolated, and in fact the Gippsland region and south-east New South Wales have come together to form a South-East Australia Transport Strategy group, which is working together to change the reality to the point where Gippsland and south-east New South Wales, Eden-Monaro and so on are seen as a major corridor rather than two isolated ends of their relative state administrations. We believe that there is a lack of critical population and infrastructure mass outside the Latrobe Valley, and that results in a lack of economic and political leverage. Therefore, we believe that national competition policy must be balanced by the long-term pursuit of national goals. There will be cases where infrastructure may be required ahead of time for regional development purposes. We believe that Australia can, and must, recommence an active population growth program, as far as possible targeted towards regional areas. For example, our region has excellent resources, soils, climate and environment pertaining to only 250,000 people. The entire Gippsland region has a population smaller than the city of Canberra. We believe that it would function much better economically with about four times that level. The achievement of goals like that requires, we believe, a managerial approach to government and pursuing long-term objectives in a consistent manner.

Looking to the future, we would recommend two approaches: first, where appropriate, a more managerial or interventionist approach in cases where reliance on the market at local level may deliver perverse outcomes for the community and, second, in certain circumstances, actually follow through of national competition policy in cases where it is likely to deliver appropriate outcomes.

Picking up the latter point, we believe in certain respects national competition policy has not necessarily been fully applied to the electricity industry. Transmission pricing is still on a postage stamp basis, which distorts market signals by smoothing out the economic and environmental costs of transporting electricity from power stations to terminals. These costs are very great. Apart from capital and maintenance costs, considerable energy is lost in transmission and, in certain cases, you could lose up to 10 per cent of the energy just moving it from the point of generation to the point of consumption. This means that we are generating up to 10 per cent extra in greenhouse gases just to warm up the wires, in effect, to get the electricity from the Latrobe Valley to other parts of Victoria.

We find it hard to think of many other industry sectors where the market signals are hidden to this extent. For example, you would have a hard time sustaining any suggestion that there should be a uniform railway tariff throughout Victoria or throughout New South Wales. Yet, to a certain extent, that is what is going on in the electricity industry and has done for many years.

Probably more importantly, we believe that competitive neutrality is not being fully applied. With mixed public and private ownership of Australia's electricity industry,

competitive neutrality is vital for efficient resource allocation. However, there is a possibility of corporatised publicly owned participants not necessarily obeying the rules, and we believe they must. As an example of that, I would like to table some work that one of our energy companies, Yallourn Energy, has done which looks at the effect of some of these distortions. I have already provided a copy of this to Hansard for its records. This shows that major distortions can result from undervaluation of assets or capital and operating subsidies. We believe that national competition payments should take account of the achievement of competitive neutrality. Having gone as far as we have, and having privatised parts of our electricity industry on a national basis in a major way, we believe that the principle of competitive neutrality needs to be followed through. The question of ownership is not necessarily important, but the level playing field is.

We will also be seeking state and national endorsement of La Trobe Shire Council's energy advantage program to unlock what amounts to our greatest comparative advantage. The energy advantage program takes account of the fact that we have a unique concentration of generating capacity—that is, six generators within 20 kilometres of each other—and we can deliver cheaper electricity to local industry. We believe that the program will allow an unrivalled comparative advantage for us, offering cheaper electricity. We believe that this is an advantage both for the state of Victoria and for Australia in attracting footloose industries and competition with other regions internationally. We believe that there are significant environmental benefits as a result of transmission losses and that this would benefit our national greenhouse obligations. On that basis, I have already provided to Hansard a copy of our stage 1 report on the energy advantage, and I would like to provide copies to the senators.

Our energy advantage plan has essentially three parts to it. One is establishing a central energy park that gives consumers direct electricity supply linked to the region 6 electricity generators independent of the existing transmission and distribution system. This would reduce transmission and distribution charges and enable a range of complementary industries to locate on one site with access to secure, competitive electricity supply. Secondly, we believe that encouraging energy intensive industries to co-locate on land close to power stations owned by electricity generators will allow them to be exempted from transmission and distribution pricing under current regulations. Finally, we will be seeking a reconfiguration of the distribution network within the Latrobe Valley so that consumers are serviced by shorter transmission lines. This would provide a significant benefit. The point of this is that at the moment we have an anomaly where a medium sized electricity user in the Latrobe Valley can actually pay more for their electricity than they would in Melbourne.

One practical example of that is Rocklea Spinning Mill, which is a TCF industry located in Moe. It is one of the largest employers in Moe—it employs over 100 people—and yet it is paying more for its electricity lying 10 kilometres from Yallourn power station than it would if it were located in Melbourne. We find that a very odd outcome. We have discussed that with the National Competition Council, with the Office of the Regulator General in Victoria and with Eastern Energy, the local distributor. We are following it up but would like to place that issue on notice.

In summary, we would like to recommend a level playing field for corporatised entities versus private entities in the electricity industry. We will be seeking national and state

assistance in achieving a comparative advantage, especially in siting energy intensive industries. That makes good environmental and economic sense, but we also believe that it assists us to get back on our feet after having lost something like 10 per cent of our population in terms of jobs, which we believe has been an absolutely critical blow to us over about a decade. In fact, in spite of our remarks about postage stamp electricity pricing, we realise that the effects of an abandonment of postage stamp electricity pricing would be very detrimental to other regions in Victoria and Australia, so we are seeking a win-win solution on that one and believe our energy advantage program does provide that.

Finally, we believe in principle that there is still room for proactive infrastructure provision for regional growth locations. We believe that a national goal of population growth should be pursued. We believe that should be supported by national policies in the fields of infrastructure, education, labour market management, housing and urban development, and urban and regional research. Thank you very much.

Mr Francis—I will provide some demographics on the Greater Shepparton region, which you will probably find are a little different from Latrobe. Also, the approach that we have taken to the submission has been more to give an internal report of how Greater Shepparton has approached NCP principles and some general views on how we are seeing those affecting our community. Once again, I think they will have different consequences to what they have, as in the submission that Latrobe has done.

Greater Shepparton City Council is located roughly 200 kilometres north of Melbourne and has a population of 51,900, from the 1996 census, and we estimate it to be about 60,000 in 1999. Our unemployment rate is 6.7 per cent, which is the fourth lowest for regional centres in Australia. Our employment by industry is very diverse, with the highest employer being the retail sector at 16.37 per cent, the second highest being agriculture, forestry and fishing at 13.8 per cent, closely followed by manufacturing at 13.7 per cent. The horticulture industry in Greater Shepparton makes up a quarter of the whole state's production, and the dairy industry is actually three times larger than agriculture in our region. The viability of the region is supported by the likes of SPC, Furphy Tanks, Ardmona Fruits and Tatura Milk as our larger manufacturing producers. The catchment area for Shepparton, from a retail point of view, contains over 160,000 people. We have an arrangement, which is probably unique to regional Australia, where, because of the diversity of the agricultural base and the intensity of the irrigation, we have a lot of satellite towns of the likes of Tatura, Rochester and Strathmerton which are strong industrial bases in their own right.

In relation to how Greater Shepparton City Council has approached national competition policy—and I am also including competitive tendering in that process—the ratio of our in-house bids to external contracts is currently 60 external to 40 in-house. The structure of the organisation is very much orientated towards what we call a client-provider split. We have the client side of the organisation which looks after the administration and the management. Then we have another branch, which is our business unit branch, which actually controls the in-house tenders that then are bidding against services of the client—being the council providers—or also in the open market, including other municipalities in the region.

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administration and the management. Then we have another branch, which is our business unit branch, which actually controls the in-house tenders that then are bidding against services of the client—being the council providers—or also in the open market, including other municipalities in the region.

From a general point of view, I think our council would agree that NCP has not had a negative effect within our region and probably, to some degree, has had a positive effect from an organisational point of view, from a local government point of view. We have definitely seen efficiencies by the outsourcing or external tendering of a number of our services, particularly in the areas of infrastructure, public open space and even in some of the community service areas.

From a community point of view, it is probably hard to measure the effects of national competition policy; however, we have not had the cases that Latrobe and other regions have had, where you have had huge downsizing of public utilities on infrastructure authorities to that extent.

From a local government point of view, Shepparton is strong through the national competition principles and CCT implementation. However, that really is not typical of rural Victoria by any means. We do sympathise with the smaller councils that do not have the diversity and the catchment base that Shepparton does. I think their circumstances are quite different from the positive approach or the benefits that we are seeing.

One of the negatives we would see with NCP in its broadest sense, but probably directly as the result of competitive tendering, is the downsizing of staff. You mentioned before the issue of the consequences that it has had on employment of blue-collar workers in the industry. Our figures, just from Greater Shepparton, would support the figures that the MAV were mentioning. We started, at amalgamation, with a staff of around 600. We are down to around 300 staff at this time.

Interestingly though, in the outsourcing of those services to external providers or to business unit providers, but particularly to the external providers, a number of our staff have gone to be employed with those external providers in our construction areas and even in some of our community services—in maternal and child health services, in the HACC services. The conditions upon which they are moving into those areas might be different from the arrangements they had under the council, with its awards and enterprise bargaining agreements; however, there have been a number of cases where those staff have directly gone and worked under the new arrangements and picked up a redundancy from council in the process.

There were three councils prior to Greater Shepparton being constituted in 1994, and our smaller towns felt the consequences of amalgamation of local government more so than competitive tendering by the regionalisation of the depots into the main centres of Shepparton. As I mentioned earlier, quite clearly we have seen economic benefits in outsourcing, and they have been in the larger sectors of road construction, together with some of the smaller sectors such as maternal and child health. Even our local saleyards have found that, by outsourcing the operation of that facility, they are generating hundreds of thousands of dollars back to the council to use in core services.

An issue that I think needs further clarification—and the MAV touched on it in its introduction as well—is the definition of what is deemed to be a public interest. I think each individual council would probably look at public interest as being something different, in its own right. From an industry point of view, there need to be some criteria to determine public interest, whether it is done at a Commonwealth or at a state level; or, if it is done at a local level, there need to be accountability and transparency to the communities as to what is deemed to be public interest.

Competitive neutrality is something that, from our council's point of view, we have embraced favourably. We see benefits for it in as much as it does place a level playing field out there. I think a lot of the businesses in Shepparton that are competing against in-house business units of council expect that council is playing on a level playing field. Consequently, by competitive neutrality principles being enforced—and we do enforce competitive neutrality principles—if external bidders do lose, they feel that at least it has been a level playing field.

From a community point of view I think that, if you ask anybody in the street, they would say that in telecommunications and, to some degree, in the power industry, they have seen some improvements in the quality of service in those facilities to the greater Shepparton region. However, I think there is still room for improvement, particularly in telecommunications, to rural Victoria and to the outskirts of our municipality as well.

Further changes that we would like to see in competitive tendering are in relation to the structuring of the contract arrangements. For example, Victorian local government came out of a situation where it may not have had very much expertise in designing contracts and specifications to, basically overnight, having to find 50 per cent of its expenditure from an external source, and it had to build up a lot of expertise in writing contracts. I think it would be fair to say that not all contracts have been right in their first round, and there are areas for improvement when they go out the second or third time.

In those arrangements we would like to see councils given the opportunity to enter into more partnering arrangements, rather than having a very detailed specification written for which strong terms and conditions are implied, and a move to an arrangement where we are sitting down with potential providers and asking how they can actually enhance the service. That means that you might be moving away from an economic basis where you are awarding contracts to looking at more quality of service.

In relation to the reporting on national competition, the reporting that we now do—in the last 12 months or two years—under our annual report requirements is a good start; however, I do not think they are designed to give the average person in the street a real understanding of the principles of national competition and how the council is using them. I am not sure whether that is a federal or state guideline, but I think a fair bit of work needs to be done in relation to that improvement. Thank you.

Mr Clark—To follow on briefly from what John said, my area of expertise is competitive tendering, for want of a better word, and I think that generally it has been a positive thing for local government. It has challenged local government to test for efficiency and effectiveness of their service delivery and I think that is positive. To reiterate what John

said, there have been problems. We are bound by the local government act to tender for works that are greater than \$50,000 in value. Obviously, the majority of our contracts will be larger than that when we are talking about infrastructure, maintenance and public open space, so it makes it difficult to enter into this partnering type contract, depending on the process you use to source that supplier.

We were inexperienced in contracting—we were thrown into it five years ago—but I think we are now smarter. To reiterate what Rob Spence from the MAV said, we are getting a bit cleverer in how we source our contractors, but we do not have a full understanding in all circumstances of how to source the correct supplier for our contracts. We are possibly led a little bit by our legal firms. We have a culture of contracting from a legal point of view in local government now, which we probably did not have five years ago, pre-CCT days. CCT also has a bit of an assumption that the lowest cost equals the best value to the community, and I do not think we can say that is the case at all.

I agree with what Rob Spence said about the 50 per cent target being a blunt instrument, but I do think local government needs some form of incentive to keep the market testing. That might be like the UK model, where it is legislated what services are sent to the market. But I think some of the issues for the community are the process, the cost to the community of going to tender, and the contracting process itself. There is a cost there, and I do not think that has been quantified in the industry yet.

CHAIR—Thank you very much. Senator McGauran, do you want to start?

Senator McGAURAN—To Mr Stephens from the Latrobe Shire: what is your percentage in regard to the 50 per cent compulsory competitive tendering? Have you made 50 per cent?

Mr Stephens—As the economic development officer, I am not personally briefed on compulsory competitive tendering as it affects our council. I have some general knowledge—and I think we are just finding the figure for you now. It is 59.2 per cent. I do know that the approach our council took was, in the beginning, that it would not simply contract out virtually all of its services. Our La Trobe Shire did not take that approach. It decided that it would positively support internal business units in bidding for work, and it actually hired, at council's expense, consultants to help those internal business units prepare their bids—to give them a fair go, because a lot of them had no experience in that sort of preparation task. I do not know exactly what the position is at the moment, but I do know that, as of a couple of years ago, only two of our internal business units had unsuccessfully bid for their work. So there is a fairly high level of internal provision within a CCT environment.

Senator McGAURAN—Has your council ever triggered the public interest test?

Mr Stephens—Again, in a professional sense, I am unaware of that, but I do not recall reading about it. That is all I can tell you.

Senator McGAURAN—Your council would have—I would suspect more than Shepparton—a higher social services budget.

Mr Stephens—Yes, we have a range of services to the community. There were some comments made by the MAV earlier on about, I suppose you could say, the sleeper inherent in the rating structure on capital works and infrastructure maintenance, and that certainly is an issue for us.

Senator McGAURAN—When the three councils—Moe, Traralgon, Morwell—amalgamated to form the one—

Mr Stephens—There were parts of six municipalities, actually. There were the cities of Moe, Morwell and Traralgon; there was the shire of Traralgon, which was in effect the doughnut that sat around the city of Traralgon; and there were parts of the shire of Narracan and the shire of Rosedale.

Senator McGAURAN—Correct. Did your budget cake increase—or today has the dollar figure increased? That would be symbolic of your actually having made big savings. Did it stay the same? You brought all those councils together and they brought their budgets with them. Has the dollar figure increased?

Mr Stephens—Again, I really would only be answering on anecdotal evidence because, as I say, my particular task is the creation of jobs in the external community. As a council officer I have some knowledge of these things, but my job is very much outwardly focused toward the maintenance and creation of jobs in the external community. In fact, I was hired by council after the immediate amalgamation process, so I did not actually watch it happen. Of course, in common with other councils, there was a loss of jobs absolutely, but the centralisation of services that our colleagues from Shepparton referred to has also occurred.

Senator McGAURAN—I know you have taken a very bad hit in the power industry in the Latrobe Valley with regard to jobs. What about your other traditional industries, such as the Maryvale Paper Mill? Has that grown and expanded? Haven't you recently attracted Bonlac?

Mr Stephens—If the senators wish to see it, I have brought with me a copy of a submission we made to the Australian Senate Employment, Education and Training Committee inquiry into regional employment and unemployment. That has a very interesting table within it which actually illustrates overall the structure of employment in our community. I would be happy to table that document. If you look at that, it actually gives you the picture of both the job losses and the slight replacement of those jobs.

Senator McGAURAN—That is what I was trying to work out. You say there has been a slight shifting, but nothing to make up for the loss.

Mr Stephens—I believe that we probably hit the bottom in about 1995. There is now a slow growth. All of the economic indicators are moving in the right direction. We have an increase in column centimetres for job ads. We have a slight rise in housing prices. The township of Moe recorded a very small increase in its population, according to the Department of Infrastructure figures, over the last period. So, really, our focus now is not so much a desperate struggle to survive downsizing but to get the growth process moving again. We did successfully attract—and I suppose this is a bit of a sore point with our colleagues—

National Foods to the Latrobe Valley, in competition with the community of Shepparton. We have had a number of other successes in economic development, but you have to do an awful lot to replace the loss of 6,000 direct jobs and something like 18,000 indirect jobs.

We are at the moment actively competing for the Golden Triangle Resources magnesium smelter project. At this stage, we are at the point where the company has nominated the Latrobe Valley as its preferred site for evaluation principles. That would create something like 1,000 construction jobs and up to 400 full-time jobs. We really have to go for big opportunities like that if we are ever going to replace the jobs lost. Having said that, I think the Latrobe Valley community is maturing into a regional service economy. If you look at the statistics, it is interesting to see that the largest single sectors of employment are now in retail and tertiary services. It is not electricity, agriculture or any of those. If you look at the structure of our economy, it is now those retail and tertiary services that are the biggest single employers.

Senator McGAURAN—You have lost approximately 6,000 jobs in the power industry and 18,500 jobs overall. What is the time span of the 18,500 lost jobs?

Mr Stephens—About a decade.

Senator McGAURAN—The 1990s?

Mr Stephens—From the mid-1980s to the mid-1990s—from 1985 to 1995. That figure, of course, is a more approximate one. It is much harder to quantify the indirect job losses because there have been other factors at work. For example, there is a very high degree of casualisation and part-time work in our economy. You have workshops that were once owned by the SEC that might have had permanent salaried employment of maybe 1,000 people that now have wages employment of perhaps less than 50 people, and they simply call in workers when there is a job on. Of course, the unemployment statistics do not always measure that sort of trend terribly well.

Senator McGAURAN—Did they leave the Valley? Has the overall population in the valley decreased in that decade?

Mr Stephens—Yes, it has.

Senator McGAURAN—What is it now?

Mr Stephens—It is just below 70,000—about 69,000, from memory.

CHAIR—The three of you might want to answer this question in turn. How much assistance have you received from either the Victorian government or the National Competition Council on how to apply and interpret the public interest test? That is a quiz night special.

Mr Francis—I am not really sure how to interpret the public interest. What I do know is that the guidelines the office of local government in Victoria has given on council's reporting is on the definition and testing of significant businesses, which it then needs to

categorise. In its national competition report statement, it needs to state whether it has tested those, brought in the pricing principles that apply and made a decision that it is or is not going to put it as an external bid. MAV might be able to answer this better than I, but I do not think there have been any guidelines on the public interest test of NCP and on how a local government should be implementing it.

Ms Hollingworth—That is right.

CHAIR—Please identify yourself.

Ms Hollingworth—I would like to step in here, if I may, and support what John Francis is saying. The NCP reporting guidelines require all councils to report on national competition policy compliance in order to receive competition payments. Those guidelines are silent about the application of any public interest criteria. The National Competition Council, as you are no doubt aware, has published a document called *Application of public interest*. To my knowledge, that is the only document in existence that seeks to provide some assistance in the application of public interest.

CHAIR—Thank you. How much have you got out of national competition policy payments to date?

Mr Francis—I think two payments have been made.

CHAIR—This is to Shepparton?

Mr Francis—Yes, I think it was for local government in Victoria. They come at the end of each financial year. I know we received a first payment last year of about \$50,000.

CHAIR—How many people do you have in your council shire?

Mr Francis—The population of the municipality?

CHAIR—Yes.

Mr Francis—In the last census it was 51,000, but it is getting closer to 60,000.

CHAIR—This is in the Greater Shepparton district?

Mr Francis—Yes.

CHAIR—What about in Gippsland?

Mr Stephens—The population, do you mean?

CHAIR—Yes.

Mr Stephens—Just under 250,000 across the entire region.

CHAIR—Do you know how much money you got?

Mr Stephens—No, I do not.

CHAIR—I would not mind you taking that on notice and letting us know.

Mr Stephens—I certainly will.

CHAIR—I would be interested in that.

Mr Stephens—Our immediate municipality is geographically small. It is only slightly under 1,500 square kilometres. There is a population of just under 70,000 and, of that, about 55,000 is urban population. So it is a highly urbanised municipality.

CHAIR—I understand that. Let us get back to a couple of other issues. Of the documents you have tendered here today, the one I want to draw your attention to is the one with Yallourn on the right-hand side, on page 1: *National electricity market—an uneven playing field*. This document is rather interesting because it tells me that the capacity of Loy Yang A is about 2,000 megawatts. It was commissioned in 1987, and someone has valued it at \$4.9 billion. Is it bricked in gold, or what?

Mr Stephens—That, of course, is the outworking of the sale process that the Victorian government went through, and I think it is generally—

CHAIR—They must have sold the coalfield that goes with it.

Mr Stephens—They did. The way Loy Yang works is that it was originally conceived by the State Electricity Commission as one coalfield supplying what was known as Loy Yang A and Loy Yang B power stations.

CHAIR—That is right.

Mr Stephens—Of course, what ended up happening was that the last part of Loy Yang B was cancelled and, subsequently, the Loy Yang A power station and the coalfield and associated infrastructure were sold to Loy Yang Power. Then, separately, the Loy Yang B power station was sold to Edison Mission Energy. Edison Mission Energy is dependent on Loy Yang to supply its coal.

CHAIR—Looking at these figures, that one is valued at \$4.9 billion, of which I would suggest to you probably 90 per cent is the resource—

Mr Stephens—Rather than the power plant.

CHAIR—Because a 2,000-megawatt thermal power plant costs about \$400 million or \$500 million to build today anywhere in the world. I look at the rest of it here, and a good part of your argument is based on these valuations. We have for a 1971 power plant, Hazelwood, a valuation of \$2.4 billion. Westinghouse would love these figures because they could sell you a nuclear power plant and you could be saving money by the day where this

is concerned. Yallourn is pretty much the same story. Again, it is almost 20 years old. The other one is almost 30 years old. I want to draw your attention to these figures here. In a sense, I do not think it is fair to actually drag in the resource allocation valuation as part of this thing here. I think it skews and distorts the figures as it goes through.

I suppose, if somebody has had to buy it and pay it off, that is good news for us in South Australia where we are energy starved. We have lousy coal, but it is our coal. If it really does cost five per cent of the electricity to heat the wires between here and there, I think our lot can feel pretty happy in South Australia. We might have an electricity industry for a while yet. I think there is an acceptance that electricity is very much more efficient in parts of Victoria now that you are getting your act together on some of these things.

In terms of efficiency, there have been a large number of job losses in your area, and in Shepparton there have been a large number of government job losses as well, but not because of electricity rationalisation. We have actually heard enough about electricity, in a sense. We know that 6,000 jobs have gone that were there before. Before we leave that topic totally, how many of those jobs have gone to Melbourne and how many jobs have gone altogether because of efficiencies?

Mr Stephens—The 6,000 are actually the jobs that have gone absolutely.

CHAIR—But there are a number of jobs that have gone to Melbourne too.

Mr Stephens—There was a larger number of jobs that were shed by the SEC—I think that figure is around 8,000—but about 2,000 of those have then gone to contractors and have all gone to Melbourne.

CHAIR—I think you said before that some of the jobs have gone to Melbourne. I made a quick note of it at the time.

Mr Stephens—In fact, right at the beginning—

CHAIR—I think you were saying that building centres and all those sorts of things were jobs that went to the metropolitan area.

Mr Stephens—I was referring to a situation we face right at the moment and explaining why we were offering the apologies of our mayor and our chief executive. I was simply making reference to the fact that Eastern Energy, which was once part of the SEC in itself, has taken a decision to remove its billing and customer service staff from Traralgon and move them to Melbourne. That decision was announced about a week ago.

CHAIR—In essence, you have lost 6,000 jobs that have gone totally out of your area. Are there any other government services that have been declining in your area?

Mr Stephens—Yes.

CHAIR—Have you got any idea what the total loss of government jobs is?

Mr Stephens—The report that we prepared for the Senate inquiry on employment and unemployment in regional areas, which I handed to Senator McGauran, has a table of the comparative organisations that have been lost by the various Latrobe Valley towns and those that have been added. Overwhelmingly, it has been organisations that have ceased to operate. That is a process that is going on throughout regional Australia, and it is just part of the process of economic change. I suppose the point we are making is that we faced an extraordinary situation in Latrobe Valley in addition to the normal process of economic change that goes on everywhere.

CHAIR—What can you say in Shepparton about the loss of government bodies?

Mr Francis—There certainly has not been the extent of loss of employment that Latrobe has had. In fact, it would be hard to say whether there are any specific examples where we would think there has been a migration from the region as a result of loss of government bodies. In fact, we have seen a movement into the region of some authorities, not necessarily associated with NCP—because some of it occurred before. There has been a move of centralisation back to the Goulburn Valley from other regions—for example, the department of agriculture centralised in Tatura, which is one of our smaller towns. It reduced its Shepparton presence and all its ancillaries from a broader base in Goulburn Valley and moved to a smaller town. Likewise with the old Rural Water Commission: it did the same. As far as I can recall, I do not think we have seen a lot of people moving from the region as a result of movements by government departments.

CHAIR—So you have not seen any huge downsizing of public enterprise in your particular shire?

Mr Stephens—No.

CHAIR—But you have obviously in yours?

Mr Francis—Yes.

CHAIR—Apart from electricity, where have the government jobs gone?

Mr Stephens—Obviously there have been changes in the Commonwealth Employment Service. The SEC itself had customer shops in each of our towns; they have gone. There has been a loss of jobs from the Monash University Gippsland campus. I am just picking off things at random now. There has been a rationalisation of road maintenance, and in fact there is very little work done in-house by VicRoads now. I am just trying to think.

CHAIR—So, effectively, operators come in from the metropolitan area, do the VicRoads work and then go home again; is that what you are saying?

Mr Stephens—No. Actually it is not quite as bad as that because in fact there are private sector operators who have picked up that work. But I should think—without checking the figures—that it would be very similar to the process you are seeing in local government where there has been a net loss of jobs as a result of that process. I do not have those figures before me, but that is what I would expect to find.

CHAIR—I wonder if you can just give us some sort of an idea of what the backdrop of unemployment levels are in your two districts?

Mr Stephens—Certainly. At its worst, ours got up to about 18 per cent in pockets of Moe and Morwell. It has dropped a little bit now, but it is still at very high levels.

CHAIR—What is your average across the whole area now?

Mr Stephens—At the moment, I believe that it is in the order of 15 or 16 per cent.

CHAIR—So it is still almost 2½ times the national average?

Mr Stephens—Yes. And, as I say, we would not be confident that that is not masking a very high level of casualisation or part time within that.

CHAIR—That is not what?

Mr Stephens—We believe that that would also be masking a very high level of casualisation and part-time work.

CHAIR—So it is worse than 15 to 16 per cent?

Mr Stephens—Most likely—in reality—yes.

CHAIR—And Shepparton?

Mr Francis—Our unemployment rate is 6.7 per cent for the region.

CHAIR—Right on the national average.

Mr Francis—The fourth lowest for regional centres in Australia, it so happens.

CHAIR—So you blokes have got the national average?

Mr Francis—Yes.

CHAIR—You have managed to achieve it. Good. What about growth prospects? A lot of the evidence you gave us here today I guess you could actually use to attract some of the major corporations into your area and that sort of thing. That is obviously what you are intent on doing. You are big enough to do that, I guess, with a quarter of a million people.

Mr Stephens—Yes.

CHAIR—How have you been going with it?

Mr Stephens—As I say, first of all we had to recover from the immediate shock that we had suffered. Quite apart from any external effects, that had a severe effect on business confidence within our region. There are, of course, entrepreneurs even within our community

who have the wherewithal to be able to invest, but not much of that was happening. We believe that we are now on a slow upward growth path, but we have to work awfully hard first to replace the population and jobs we have lost and then to actually restart the growth process.

That is an issue for our council in its internal budget, because we are maintaining a level of infrastructure that was geared around the expectation of growth, and so we have an excess supply of virtually everything. It reminds me a little bit of Canberra at various times. I lived in Canberra for a while and there were periods where the National Capital Development Commission, as it was then, had got well ahead of itself in terms of infrastructure provision. In some ways, we are a bit like that in the Latrobe Valley, because the expectation was one of growth.

CHAIR—But you don't have roads that go round and meet each other, do you?

Mr Stephens—I know what you are talking about. I have seen that. In some cases, yes, we do.

CHAIR—What about in Shepparton? You are obviously pretty happy with the 6.7 per cent employment.

Mr Francis—Yes, but it could always be better. We would always be competing for further growth with the likes of Latrobe and other regional centres.

CHAIR—I noticed he was coy about whom he was talking to.

Senator McGAURAN—How much of a sponge city are you?

Mr Francis—We are very much a sponge city, just because of our geographical base and proximity to a lot of the southern population. Deniliquin, for example, which is another 220 kilometres north, often uses Shepparton as its major retail centre. That gives you an example of the catchment area from which Shepparton attracts. As I said earlier, it is a retail catchment area of customers of 160,000. It is very much a sponge city or region.

Mr Stephens—I think you would find that we would be performing a similar role and will continue to. We are not necessarily setting out to do our neighbours in the eye, so to speak, but it is just the natural working of economic forces. The fact that in Morwell there is now an eight-screen Village cinema, a Bunnings store and things like that must have an effect on retailing in small towns around our region.

Mr Francis—Can I just give you an indication of our estimates on growth from a dwelling point of view. The number of private occupied dwellings in 1996 was about 5,600. We are estimating that to be 7,500 by the year 2011 and 8,500 by the year 2021.

CHAIR—It would be fair to say that the two of you would probably not be representative of the sorts of councils that have been kicked around by national competition policy.

Mr Stephens—That would be right.

CHAIR—That is the case I am building up to. In your case, you have better than the national average. You have 6.7 per cent. Obviously, you are doing pretty well. In your case, you would like to be doing a lot better. But there are a quarter of a million of you and, presumably, your budgets are reasonably healthy and so on, so you are not getting kicked around by national competition policy, as some of the shires are out there.

Mr Stephens—Another important factor is that our economy is large enough and robust enough that there is actually real competition in the private sector and so compulsory competitive tendering can work in a fairly genuine sort of way. There are other parts of Gippsland—and no doubt throughout Australia—where the private market is not that mature and, therefore, the compulsory competitive tendering system will not necessarily work in as genuine a way.

Mr Francis—It will not meet the principle of NCP in those smaller rural municipalities on the outskirts of Mildura and those areas where they just do not have the base upon which to attract external providers. As a result, they may then be packaging their bids to meet just a requirement of 50 per cent—which is the CCT legislation—which may not necessarily be getting the best value for their community. So it does become very distorted when you move into some of those isolated rural areas.

CHAIR—In terms of national competition policy—we are now five years since this stuff started—what is your assessment, from the point of view of the shire of Latrobe Valley? Is it thumbs up or down?

Mr Stephens—As a council officer, I have to be a little bit careful here. But the gist of our submission is that we recognise what has happened in the electricity industry and, having got to where we have got, we are saying, ‘Let’s keep going; let’s pursue competitive neutrality; let’s follow the outworkings of the policy.’ We can’t go back. We are not suggesting that we would. So we move on.

CHAIR—So qualified support?

Mr Stephens—Yes.

Mr Francis—Shepparton Council would give the thumbs up, I think, to NCP. I think Victorian local government in administering NCP has made a huge leap from where it was prior to introducing the principles. But in saying that there is still a long way for us to go. I made some of those points in our submission earlier about how contracts are administered and implemented in the first place and better arrangements with potential contractors. I think that will evolve as we develop more expertise in how we are dealing in a client relationship more so than an employee-employer relationship. From a regional point of view, I think I would be right in representing our community by saying that overall what we have seen from NCP, as opposed to other changes that may be hanging on the coat-tails of NCP or other forms of change, are probably well received within our community.

Mr Clark—We would certainly say it is a positive, but there is also some confusion between NCP and some other factors as to why regional and rural councils or areas might be seen to be declining. That might well be things like technology or better roads and better cars. People have better information. Tertiary education is mainly in the city. Issues like that are probably getting confused with NCP as well. I think a lot of people would associate a bank closure with NCP where really it is just probably good business practice by a bank which has a lot of shareholders demanding a return.

Mr Stephens—As you say, a lot of that is about transport and communications. The township of Moe historically fed the goldfields town of Walhalla just to its north. I think in the stagecoach days that took a full day as a journey. They then constructed a railway that allowed the journey to shrink to three hours. I can now drive it in 40 to 45 minutes. That process obviously has a huge effect on the provision of services locally.

Mr Clark—A perfect example of that would be the logging industry. It used to take a day to chop a tree down. Now they can go with a chainsaw and knock it down in quarter of an hour. That is just a technology advance. Because of that, the area they can log would be declining and therefore a town is going to decline, and it will be towns like Heyfield just outside the Latrobe Valley.

Mr Francis—Can I make a comment on NCP. I think the management at Shepparton are concerned about it from an industry point of view, and this is more to do with competitive tendering but it does apply to NCP. The 50 per cent quota that the Victorian government has put in has set a benchmark upon which councils need to work, but quite clearly there are some councils that, in order to meet the spirit of providing competition, cannot meet that 50 per cent and then they get distorted, which is trying to package services to meet a requirement. If that were to be disbanded completely, we would be concerned that local government in Victoria may want to go back to what it used to be doing years ago, where it did all go back to providing garbage services and road maintenance crews and the like in-house. We feel that would be detrimental to the principles.

However, in reviewing where it is going, there probably could be room to negotiate in relation to metropolitan councils and the large regional centres like ourselves. Our competitive expenditure last year was 61 per cent, I think, and over the last three or four years it has been around that rate, so we are well and truly over the 50 per cent, and the government is likely to say, 'We will not do that anymore.' It would be concerning, I think, to the industry overall. However, in the smaller municipalities you might be able to come up with a way where it is deemed to be a community interest or have an effect upon which they need, as a community, to determine whether they want to get 'value' from it being provided externally, if it is provided at all, or in some way subsidising their community, as they have always seen it. That is a fine line to work out, but just to say, 'We are not doing it anymore' would be pretty devastating for local government and particularly for communities as they are. In saying that, we at Greater Shepparton would probably still be outsourcing what we deemed to be considered better tested in the external market, regardless of whether there was a quota.

At the same time, being a director of finance, I think that the national competition payments you mentioned would be a really good opportunity for councils to work towards

getting a better payment for meeting NCP principles or some type of guidelines, as opposed to—as it is in the state of Victoria—where it is just provided on some other basis to the councils, not necessarily on whether they have had high or low achievement.

CHAIR—Thank you very much, gentlemen. We will take a five-minute break and then we will hear from the Brotherhood of St Laurence.

Proceedings suspended from 11.45 a.m. to 11.55 a.m.

SIEMON, Mr Donald McIver, Social Policy Coordinator, Brotherhood of St Laurence

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Siemon—Yes. I was acting director of social action research when we put our submission in, but I have dropped down a rung since then.

CHAIR—Thank you. We prefer that all evidence to the committee be given in public, but should you at any stage wish to give part of your evidence or answers to specific questions in private you may apply to do so and the committee will consider your request. I invite you to make a brief opening statement and at the conclusion of your remarks we will invite committee members to ask you questions.

Mr Siemon—Thank you. I am delighted to be here today. As you know, the brotherhood did not put in a detailed submission to this inquiry. What we did was provide you with a series of papers reflecting particularly on the introduction of market mechanisms including competitive tendering into human services. To assist the committee, I have produced a two-page summary of the issues we want to highlight today which I will make available. I will not go through all of those key points now. I would like to make four major points. Firstly, concerning national competition policy and impact on vulnerable people in Australia—which is the prime concern of the Brotherhood of St Laurence—it is not likely that you can attribute anything to something so broad as national competition policy in terms of outcomes for service users. In some instances that is because it is too early. While there is a lot of talk about the introduction of competition or competitive mechanisms in human services, in reality even in Victoria it is pretty early days. The second reason is that there are a lot of other changes which have been going on in the delivery of human services which, while justified or appearing sometimes to be under a rubric of competition, are relatively unrelated; in particular, in Victoria it has been aggregate funding cuts to health and community services.

While the notion of contestability and opening up previously protected parts of the economy to some competition is useful and probably has proved useful in particular areas—in particular, in breaking down boundaries between states—we have to recognise that it is a limited set of principles, not something that should overarch everything. The related point that I want to make is that we would be concerned about the extent to which the rhetoric which flows from competition policy tends to dominate other ways of talking about the problems which we see around us and which government is called upon to address if not resolve.

Our overall approach to the introduction of market relationships into the delivery of human services is that we believe it should be strongly evidence based. We believe that it should be case by case examinations, rather than the simple adoption of principles. The example of compulsory competitive tendering in Victoria is in strong contrast with the use of outsourcing in the private sector which seems to me to be much more strategically adopted rather than imposed across the board in a heavy-handed fashion.

I will conclude by saying that, from our point of view, probably the greatest long-term risk with national competition policy—if it is seen as a very broad and unlimited set of principles—is that, in human services, it actually distracts governments from two things. The first thing is the pressing, unmet needs which exist in the community. The focus on efficiency, while welcome in some ways, can actually divert us from the fact that there is a lot more unmet need in particular areas. It also distracts us from the fact that maybe the most potent solutions to some of the problems we are facing have to be built from the ground up. Some of what is happening with competitive tendering is actually about strengthening narrow central controls and moving away from the ability to develop ground-up solutions. As I said, I have a more detailed two-page summary of some points, which I will make available, but I think that is enough by way of introduction.

CHAIR—Thank you very much.

Senator McGAURAN—Would competitive tendering not suit the Brotherhood of Saint Laurence or the Salvation Army—the established charities—because of their credibility, because of their experience and because they actually have the structures to put a sophisticated tender in or the right tender in? Is it not to your advantage?

Mr Siemon—It could be if we were in the business of expanding as an organisation. Our previous executive director, Bishop Michael Challen, who has just left, was very clear that the Brotherhood was not in the business of simply growing for its own sake, nor in the business of taking on services which, in his view, were perfectly well provided either by the public sector—local government principally—or by other organisations. So we have in fact only sought to engage in tenders where we feel there is a particular reason for us to do so. If there are other organisations who we think are capable of doing the job perfectly well, we have not really pursued that. That is a particular organisational bent that we have had.

The main point is generally true that—given two things: often the funding agencies are actually keen to have fewer tenders to manage than more; and larger organisations have the resources, in terms of established infrastructure, access to capital and access to independent finance—larger organisations are advantaged as opposed to small, community based organisations that may be very well grounded in their local community but perhaps do not have access to some of that, and also are more easily demoralised, frankly.

There are a number of ways in which the sector is trying to address that, principally by forms of networks. For example, we are involved as one member of an organisation called Job Futures, which is one of the non-government organisations delivering services as part of the Job Network. As you know, there are probably going to be far fewer players in the Job Network than in the past. We do not even know whether Job Futures, which is quite a big aggregation, will be large enough to get much of the business in the next round of tenders, because government wants to reduce the number of contracts they have to manage and is encouraging aggregation.

Senator McGAURAN—So, with competitive tendering, it is the community based services that have most lost out because of costs of the tendering in itself and simply recognition?

Mr Siemon—Yes, the costs of doing it and also the delays and confusion. We should not forget that, quite often, when these changes are brought in, there are gaps in funding, there is confusion about it or there are shortfalls. It is unclear that we are, as it were, moving from one set of funding arrangements here to another set over here. If you look over the last 15 years, you would probably see a pattern more of just continuing change according to political priorities, new arrangements within government funding departments and so on. There has been a lot of change. It is not clear at all that we are going to have some perfect end point. Organisations have had some discontinuity and disruption which, again, hits the smaller ones more.

If you are talking about employment service, for example, some of those employment services had strong roots in the local community. They had strong networks which enabled them to produce the outcomes. It is not always clear that, in the short term at least, another provider coming in from outside, while benefiting from economies of scale, will necessarily be able to pick up on those things and produce the same outcomes.

Senator McGAURAN—I agree with you fully. That is well put. I saw one way round it in Shepparton a couple of weeks ago. There was what you would call a community service, but the Salvation Army basically lent its name to them, you might say, in regard to the tender process. I should not say ‘just lent its name’. It assigned a person, but so as to give that extra credibility in the tendering they were being overseen by the Salvation Army although it still operated as a community service. Does that happen with the Brotherhood of St Laurence? Maybe that is the way to go.

Mr Siemon—In employment services, the Brotherhood has participated with small agencies in another organisation rather than trying to bring them into the Brotherhood, because we felt that was the best way of proceeding. There are organisations that have approached the Brotherhood in the past, to become part of it, because of this desire to get some additional stability. There is only one which we have followed through, because usually we have felt that those organisations were better having an association with someone else because of who they were and their local characteristics. It might be a health centre, for example, or a community legal centre. They are better associated with those than with us, really. The Ecumenical Migration Centre, which is a longstanding organisation in its own right in Melbourne, has actually recently merged with the Brotherhood, in part because of the difficulties of continuing as an independent organisation in the current climate. But there will be a whole range of responses. Bits of the community sector have been very creative in trying to find ways of maintaining their core values and doing the work that they think is most important within changing funding paradigms.

By and large, government has not really sought to ‘knock off’ the community sector, as it were. You could make that case for child-care funding, but I do not think you would make that case for, say, employment services. What I would see is that there are other pressures, such as the difficulty of administering a lot of small contracts, which mean that government, for its own administrative reasons, to make its own internal inefficiencies, will seek to do things like aggregate. There may be benefits in doing that in particular cases. I think the crucial issue is: can we keep a focus on the people who really need the services, from our point of view? That is our bottom line.

Senator McGAURAN—They are very good points. Governments lean towards fewer rather than more. But, when it comes to social services, there is always a strong case for community based services. I have one more question. We were told today that Port Phillip Council has a distinct policy of, basically, quarantining its social services as in-house. Do you know anything about that?

Mr Siemon—I am aware that different Victorian local governments have responded in different ways to having to get the 50 per cent of budget tendered benchmark. Some councils have done things which seem to me to be quite worrying, in terms of responding to that benchmark.

Senator McGAURAN—For example?

Mr Siemon—I do not know the full details. There is one council that I am aware of which puts family day care workers through CCT processes. The council role in family day care is one of coordination and the provision of what is almost a licensing arrangement for independent operators. They are not actually providing a service to the council. The effect of the introduction of a whole lot of paperwork and confusion by making them into a tendering agency was to knock down the number of carers that they had for child care from 60, I think, to 12. That was primarily due to them deciding that family day care was one of those things within their basket of services that they could put to tender. The CCT really had nothing to do with family day care provision. It was quite a silly sort of thing to do but they were driven to it, in a sense, by the 50 per cent rule.

I think local governments have varied in how they have managed the rule. I think it has been very difficult for them. The main concern which we would have about local governments in terms of CCT—leaving aside what has actually happened to some of the human services; we do not know a lot about it, and I do not want to be in the business of providing little anecdotes about them because I do not think that is helpful—is the loss of local discussion and coordination between services in local government areas. We have a situation where we need to rebuild networks that understand what the needs of the community are, as part of the local government process. Those networks need to involve local providers, local agencies and local government and, in some cases, local businesses, so that local government is really able to articulate the needs of the community.

CHAIR—I have only got a couple of matters that I want to raise with you, and they follow on from a similar discussion that you have had with Senator McGauran. There has obviously got to be a balance between welfare and efficiency. In essence, one of the problems we have is that we have to look at the socio-economic consequences of competition policy. You could say: does competition policy deliver benefits? I think the answer is probably that it does. It may well cause a whole raft of problems, but competition policy has come along with a whole range of other economic reforms. There are people who are going to get hurt in this exercise—quite a number of people in rural Australia have been hurt by this exercise. But if it puts more resources into the hands of government to deal with the macro problem of wealth redistribution, is that an argument for it?

Mr Siemon—It is an argument for it. The brotherhood generally takes both economic efficiency and service efficiency pretty seriously. We would certainly not want to be seen as

saying that human services, whether big or small, should be in the business of getting a blank cheque and being unaccountable, nor that we should not be trying to look at sensible ways of improving economic efficiency. That is the reason that the brotherhood, for example, has been quite active in terms of the tax debate, because our starting point for that is not only issues of equity but also issues of revenue and issues of economic efficiency. We do take them seriously.

I would offer one observation about efficiency. Depending on whether you are talking about state utilities, for example, pricing policies or restructuring of electricity, sometimes restructuring is worked out with short-term regressive policies, which are pretty clear and definite, in favour of somewhat more vague and well-justified efficiency benefits.

For example, with some of the pricing changes for water which have been argued—a shift towards user pays and a shift away from rates—I do not believe that the evidence is very strong that we are actually going to get many economic efficiency benefits out of it. Pretty clearly, we are getting regressive impacts on the water consumers. While governments have been quite happy to talk about what they thought are the long-term efficiency gains, they have not done very much about addressing the regressive outcomes at the bottom.

We take efficiency seriously but we want to look at the evidence seriously, rather than just accept assertions that efficiency benefits are naturally going to flow from anything in particular. I will repeat what I said before: we think you have got to look at these things case by case and really disentangle them, rather than simply apply blanket rules of thumb. One of the real risks of the national competition policy is that we replace simple rules of thumb in human services, like ‘all health care should be free in terms of purchase price’, with another one that says, ‘there should be as much private decision-making about this as possible’. Somewhere in between we start getting the introduction of co-payments for particular things, which are all seen as terribly reasonable because they are relatively small. Our research is suggesting that the introduction of quite modest co-payments in things like dental health, community health centres, fees for podiatry and physio, in combination with other factors, is having an immediate impact in terms of increased pain and hardship for some low income people. It is also stopping people getting preventative treatment and it is producing higher total system costs. We have got to be very careful to think through things on a case-by-case basis.

CHAIR—Have you or your organisation disaggregated the impact of national competition policy and, if so, what conclusions have you come to about it?

Mr Siemon—The answer is no, I do not think so. It depends what you mean by national competition policy. Our focus is what you would see as the broader trend, of which national competition policy is a part, towards the introduction of market relations and services. We are not in the business of saying, ‘Here is national competition policy. Here are discernible outcomes.’ I cannot prove to you, and I certainly would not want to, that, ‘Here is national competition policy, here are these people who are hurt by it,’ and so on. It is not that sort of exercise.

Senator McGAURAN—I was grabbing one of your lines and telling the secretary that when he comes to write the report, it was a good line to use.

Mr Siemon—I will make available these summary sheets.

CHAIR—If you could table them, it would be useful. We will resume at 1.30.

Proceedings suspended from 12.19 p.m. to 1.34 p.m.

GLEESON, Mr Hugh, General Manager, Planning and Regulation, United Energy Ltd

LEE, Mr Trevor James, Economic and Regulatory Adviser, United Energy Ltd

FEARON, Mr Paul Francis, General Manager, Regulation and Strategy, CitiPower Pty Ltd

CHAIR—I now welcome here to these proceedings this afternoon the representatives of United Energy and CitiPower. I should start by saying we do prefer all evidence to the committee to be given in public, but should you at any stage wish to give part of your evidence or answers to specific questions in private you may apply to do so and the committee will consider your request. I now invite you to make a brief opening statement, and at the conclusion of your remarks we will invite committee members to ask questions.

Mr Trevor Lee—Thank you for giving us an opportunity to put a view to this committee. We hope that you will consider that view in your deliberations and final report.

We represent two regulatory distribution businesses in Victoria, but our submission and these remarks today take a national perspective on what we regard as a matter of national importance. Our concern is that the economic and social benefits from national competition policy, both those already achieved and those in prospect, are being jeopardised by the command and control regulatory regimes now being implemented and proposed in various jurisdictions. While we focus here on electricity, the issue is much the same for other regulated industries such as gas.

We consider that the regimes will have significantly detrimental effects on investment, industry development, economic efficiency and jobs. Many energy using industries will be adversely affected, including those in export industries.

Other stakeholders and interested parties have pointed to other adverse effects. For example, SG Hambros, which is part of the world's fourth largest bank, has concluded that the regime in Victoria jeopardises the potential success of future privatisations in Australia, as well as diminishing the attractiveness of Australia as a place to invest. One lesson from the Hambros analysis is that no regulator is an island and that poor regulation in one state will affect the national picture.

Regional and rural Australia will be especially affected by the regimes. There are a variety of industries and businesses in the bush where the cost and reliability of energy supply is critical not only to their success but also to their survival. Obvious examples are mining, mineral and food processing, and a range of agricultural activities such as dairying.

Much of the electricity infrastructure in rural areas is antiquated and outmoded, a legacy we may say of past government policies and not private enterprises. But that infrastructure will not be expanded and updated with newly emerging technologies under a command and control regime, nor will many of the emerging new services that are increasingly becoming available which are 'hanging off' the poles and wires of businesses, and there will be no other form of dynamic efficiency.

These consequences will not be the result of any perverse or antagonistic attitude by distribution businesses, either privately or publicly owned; it is simply the inevitable outcome from the distortions and perverse incentives inherent in the regulatory regimes themselves. The distribution businesses of which we are aware are very keen to expand the networks and to improve the range and quality of services, but they will not do so if they fear not getting their money back.

There are many people in the bush who are on low incomes or who are low or negative savers. The regimes being implemented automatically provide for significant jumps in prices, which must inevitably occur at some unknown future time under the proposals. Such price shocks cannot be anticipated and, therefore, cannot be avoided by a change of consumption, nor is there any substitute for what is, after all, an essential service. The money would, therefore, have to come directly from savings or by higher debt. Clearly, sudden and substantial price changes to accommodate the accumulated changes that occur in industries over five years is not emulating what happens in any real world market, as required by national competition policy—no market acts like that.

These are strong views and we have hesitated before placing them before this committee. However, we are not alone in having such concerns. This is evident from the submissions that have been made to the various regulatory pricing reviews by consumers, user industries and businesses, and other interested parties. Nor are we isolated in our criticisms of the cost plus/rate of return regulation and the so-called building block approach which is being implemented. Indeed, we consider that we hold the policy high ground and the theoretical and empirical high grounds, and it is the regulators who are isolated.

Our submission refers to a number of regulators and regulatory economists of the highest order who have commented critically on the Australian regulatory regimes, including the former heads of major regulatory bodies overseas and, in Australia, the former head of the BIE, the Deputy Chairman of the TPC, and an Associate Commissioner of the ACCC.

Comments in a similar vein have been made about the type of regulation being adopted here by many other eminent experts, including Professor Beesley, the father of UK incentive regulation, and Professor Sandford Berg and Professor Baumol in the US. Only this week, two professors who have acted as advisers to regulators here have passed comment on the Australian approach as rate of return regulation. I might say that rate of return regulation is something that policy makers here attempted to specifically avoid, given its dismal record in the US.

Even one of the regulators, IPART in New South Wales, supported these points in a staff paper, coming down firmly in favour of first best regulation. Examples of that are total factor productivity regulation or glide path regulation. But this does not appear to have influenced what is being proposed or implemented. I will quote from the IPART staff paper—it is included in the submission, but I would like to repeat it here. It states:

The history of intrusive cost plus regulation is replete with examples of heavily regulated utilities that exhibit low levels of efficiency, poor investment practices and below average service performance. Both theory and experience indicate that repeated, frequent confiscation of the benefits of efficiency improvements, combined with uncertainty over future regulatory actions, will lead to poor performance and welfare loss.

I would also like to quote from something that has just come to hand from a Californian decision on regulatory regimes. You may recall that in our submission we refer to the Californian Public Utilities Commission and to some remarks by Dr Dan Fessler. Dr Dan Fessler was the former head of the commission. The remarks he made that we have quoted in our submission are along the lines that the rate of return regulation that he had to supervise was of very poor quality and that he wanted to get rid of it. I will quote from the subsequent commissioner's report, and then I would like to say a few words about the findings. It states:

We have long considered incentive-based ratemaking superior to command-and-control regulation. PBR mechanisms—
these are external benchmarking mechanisms—

send the important message that minimizing costs without sacrificing service quality and reliability can result in greater rewards with "less" regulation than traditional cost-of-service regulation. In order to provide these incentives, we must necessarily break the link between rates and costs. Cost-of-service regulation uses the utility's own costs in setting rates and often results in inefficiency, because utilities are rewarded by increased rates for increased costs.

Slightly further down, the report states:

First, prices for electric services in California are simply too high. The shift to performance-based regulation can provide considerably stronger incentives for efficient utility operations and investment, lower rates, and result in more reasonable, competitive prices for California's consumers.

I would like to add the point that, whereas we can predict ongoing controversy and litigation with rate of return style regulation, this decision in California has the full endorsement of such diverse groups as the Office of Ratepayers Advocates, the Utility Consumers' Action Network, the Federal Executive Agencies, the Coalition of Californian Utility Employees, the City of San Diego, the Californian Farm Bureau Federation and the Natural Resources Defence Council. The point here is that everyone can agree to the benefits of good regulation.

What is required under national competition policy is that regulation, where it is to be applied at all, should emulate what occurs in markets. It should be light handed, incentive driven and non-intrusive. But what is being proposed and implemented is the opposite of this. Whereas the former is economic regulation, the latter is largely derived from accounting models that were never intended as a basis for regulation. But even in their own limited context, the accounting models have been shown to be fatally flawed, as argued by Professor Steven Gray and others.

Two other points must be made. First, the distribution businesses and other stakeholders here are increasingly anxious about the lack of natural justice and fairness in the regulatory process. Unlike the regulation of electricity in the US or, say, the regulation of trade practices in Australia, there are none of the checks and balances that can act to ensure fair and efficient outcomes. In effect, the regulators in Australia act as the gatherers of evidence, as advocates and as expert witnesses to themselves. They also act as judge and jury. Some in our industry would also say that they will have to act as the gravediggers for the businesses once their regulatory models have their full effect.

Secondly, there is the critical problem of regulatory instability. This raises sovereign risk and regulatory risk. This is most evident in Victoria at the moment where the Office of the Regulator-General is simply proposing to turn earlier commitments made at the time of the privatisations on their heads. The problem is that the regulators have been provided with almost limitless independence and discretion. The objectives of national competition policy and the regulatory frameworks are diverse and require fine judgments in application. The concern is that regulators are applying only single objectives or are introducing objectives of their own outside of the national competition policy and its frameworks. Moreover, the heads of regulators change every five years, but the distribution businesses have to make decisions on investments which last 40 years. Obviously, the prospects for investment diminish dramatically when a new regulator can come in and change direction from previously made commitments.

Of course, the ramifications of inadequate or inappropriate investment and lack of dynamic efficiency will not start to emerge for some time, long after the regulator has left office. The framework of controls under national competition policy is simply inadequate to the task. We are seeking the guidance of the committee on how to solve the problem. One possibility is for a public inquiry by a body such as the Productivity Commission into the adequacy of the legislative frameworks and the processes for regulating industries. This would test the consistency of regulatory proposals with the intent of policy and could recommend remedies where deficiencies were exposed. This may involve changes to the legislation or other action such as the introduction of appeal mechanisms.

The Productivity Commission itself recommended such an inquiry in its original report in 1991, after the reforms had been operating for three years. This is yet to be done. Mr Gary Banks, the Chairman of the Productivity Commission, reiterated the need in February this year for a review to address the concerns of the distribution businesses and other stakeholders. In any event, it is both timely and appropriate for a review of the legislation and the regulators, some of which have now been operating since the mid-1990s. Other countries are now re-evaluating how regulatory institutions and procedures can be improved because of poor performance, and this is now an urgent task in Australia. We conclude by saying that it would be a great pity if the pain from the structural reform of the electricity industry, particularly in areas such as Gippsland, was to eventually count for little and if the benefits of reform were to be lost by inefficient and unfair regulation of what is left of the industry. Thank you for your attention.

Senator McGAURAN—In relation to United Energy, what is your coverage? What area of Victoria do you cover?

Mr Gleeson—United Energy covers south-eastern Melbourne down to the Mornington Peninsula, across to Dandenong and up to Doncaster.

Senator McGAURAN—So you are city based?

Mr Gleeson—We are primarily city, other than Mornington Peninsula and around Dandenong.

Senator McGAURAN—Just to put me in the picture, I guess I should know this, but do you own a power station?

Mr Gleeson—The reform of the electricity industry has disaggregated the generation assets from the transmission from the distribution. We are the immediate poles and wires and the retail arm of the business.

Senator McGAURAN—The retail arm of the customers. Therefore, is it one of your arguments in relation to regulation that you would like to integrate?

Mr Gleeson—That is not the argument being put here, no. We are acknowledging the reform of the industry which has certainly delivered some significant benefits in terms of price reductions to customers. Whilst there is no doubt that some issues will come up from time to time relating to integration in some areas, that is not the purpose of the discussion here today.

Senator McGAURAN—You said that the regulator was acting outside the objectives of competition policy. What would be an example of that?

Mr Trevor Lee—This refers to some of the consultation papers that have been produced by the office here, bringing in a number of issues that are simply not within national competition policy. There is a whole range of them, including environmental limits and so on.

Senator McGAURAN—Can you give a couple of specific examples?

Mr Gleeson—Certainly in terms of the competition policy, as Trevor has pointed out, it is about providing incentives for dynamic efficiency—continually developing new and better ways to provide the service and to provide a better service to customers at the end of the day.

The rate of return regulatory model is one that has not been consistent with that, where basically it is a cost of service type approach to setting prices. The Victorian tariff order, which is one of the governing regulatory instruments, specifically requires, consistent with the competition policy, that in Victoria we have incentive based price regulation rather than rate of return regulation whereas the models that are now being proposed—and the debate will happen at the margin as to whether they precisely fit some definition of rate of return regulation, but we and many others have certainly interpreted the models as gravitating back towards the rate of return regulation—are inconsistent with competition policy.

Mr Trevor Lee—A related part to that question is the intention of the regulators to get into the micro management of the businesses across a whole range of business decision making. It is part and parcel of the regulatory approach that they are suggesting. Indeed, the IPART staff paper that I referred to earlier brings out the risks of regulators inducing firms to come to certain decisions in all sorts of areas. There is a great danger when businesses have to make decisions with a regulator looking over their shoulder the whole time. It is inefficient, in one sense, in that they are reluctant to make any decision which would require proof that the effect of the decision was effective. In other words, you do not get any money

unless you can prove that what you decided actually worked. In many respects that is next to impossible.

It also raises questions about who is responsible for reliability of supply and those sorts of issues. The distribution businesses may wish to expand or renew the network in some way. But when you have a regulator imposing, in a sense, his criteria on those sorts of decisions, the question inevitably would come up eventually of who is responsible. At the moment, the DBs take full responsibility for those matters, because we see ourselves as being the sole decision makers. But if the businesses are going to be micro managed by a regulator, then that question would inevitably arise. It certainly happened in the UK in Yorkshire Water. A case arose where the regulator was standing over the head of the business involved, and when something went wrong the business said, ‘Well, is it our fault? This guy was here.’ I leave that as part of the answer.

Mr Fearon—Could I put maybe a sharper perspective on it. What we are talking about is obviously a framework for regulation and a philosophy. You asked, ‘Can you give me a specific example?’ It comes down to the specific implications of going down one of these two routes. A specific example is this: if we go down the rate of return regulation route, essentially the business is focused on one thing only. It is focused on satisfying a regulator and building a rate base.

If there are issues of reliability in the bush, the solution is to build more assets—to build more traditional assets—get the rate base and your return from the regulator. The other path, which is incentive regulation, is really about getting away from that rate base building business and focusing on new technologies, different ways of doing things and exploiting the competitive framework for industry reform—for example, in rural areas, looking more closely at remote area power supply options and distributed generation. So the rural people, in this example, do not continually face increasing prices because you have a regime that builds a rate base; you have companies vying for and competing to introduce new technologies knowing that, if they invest in that technology, the return they get is not going to be then confiscated by a regulator or double-guessed by a regulator.

The framework is trying to emulate the competitive framework and market paradigm where business faces a price that it generally cannot influence, if it is a competitive market, and it pursues dynamic investment on the basis that it knows that the market price is not going to suddenly come down if it invests in and acquires a new technology. The point is that, long term, the country will be condemned to the traditional poles and wires solution. For rural constituents particularly, if that is the solution long term, prices will only ever go up and up.

Senator McGAURAN—What was the solution that you mentioned?

Mr Fearon—Poles and wires.

Senator McGAURAN—I still cannot hear you.

Mr Fearon—It is sticks and the wires.

Mr Gleeson—In other words, in this regime, if it is a cost-of-service type approach for the world, a company will do it the proven way it is used to doing it rather than seek some innovation at the margin which could ultimately drive prices and costs down. If you take risks and go and do something different, you will have a downside risk and you will not have an upside benefit because the cost pass-through regime will just pay you for what you do and not actually reward you for doing something a bit better. We have a concept of there being a bigger pie. If you have the incentives right, there will be a bigger pie to be shared around between all the players.

Senator McGAURAN—Mr Chairman, I know you are itching to go here.

CHAIR—No, keep going.

Senator McGAURAN—Do not take this disrespectfully, but I now know where all the economic rationalists have retreated to: the power industry. Isn't the nub of your concern that you want to be able to charge the price you can? You want freedom of price charging, and the regulator is keeping you back from that.

Mr Trevor Lee—Our concern is to have good regulation. We are not arguing for no regulation, although an economic rationalist might argue that this is the Harberger triangle versus the rectangle argument—which I will not go into here—and that no regulation would probably give a better result than rate of return regulation. In fact, the BIE actually came out with the argument four or five years ago that rate of return regulation can result in a worsening of social welfare. What we are arguing for is good regulation, and good regulation can only be the sort of regulation that the framers of national competition policy had in mind originally—Professor Hilmer and—

Senator McGAURAN—Which includes deciding your own tariff?

Mr Gleeson—No. In fact, it is very important to understand that where we are coming from is acknowledging the role of the regulator who sets overall controls on prices. That is important. The Californian decision that was quoted is exactly the regulatory role that works there. The overall controls are having smooth price controls and having price controls which, as much as possible, are based on external drivers that then emulate a market rather than regulation that just sets a cost-of-service type approach, where it is a cost pass-through. We are certainly not saying that we want to have totally unfettered control over our prices. We are saying we acknowledge that the regulator will, in fact, have total control in setting an overall price cap mechanism, but we are really talking about the way in which he goes about doing that and the overall longer-term regime that is in place to drive the incentives.

Senator McGAURAN—Aren't you in a similar position to Telstra? We have had to introduce for Telstra a community service obligation or universal service obligation and all sorts of rules and regulations. There are probably too many there. Nevertheless, we have to introduce something for the rural and regional areas or they will never go out there; they will never lay a line out there. Aren't you the same? You will never lay a line out in the rural and regional areas. That is why I asked you about your coverage. In fact, you do not cover—

Mr Trevor Lee—In fact, it is the opposite. We will not do it under this regulation. We want to get out there.

Senator McGAURAN—Under your price.

Mr Trevor Lee—Under a market incentive scheme, of course, you would seek out every opportunity. We will not make any profit—that is, profit beyond the normal economic rate—because the regulator is there to ensure that we do not. What we are saying is that, rather than getting a regulator into our costs to micro manage our businesses, you set us an external target—like the cost levels of the best utilities around the world—and force us down to that level. That is great; we do not mind that at all. What we do not want is regulators coming in with a cost-of-service rate of return approach—cost plus is what it is—getting into our businesses, micro managing them, telling us when to invest, when not to invest, what sorts of new activities to get into, deciding whether we deserve to be paid for them after we have spent the money and so on. That is what we do not want.

Senator McGAURAN—I make one last point, rather than ask a question. The chairman is from South Australia. In Victoria, Mr Chairman, we have a regulation whereby rural and regional areas are charged the same as the city. Is that right? It is an across-the-board—

Mr Trevor Lee—There is a rural subsidy.

Senator McGAURAN—cross-subsidisation system.

Mr Gleeson—Just to clarify, in the longer term, the regime of regulation that is proposed—and we are not challenging the overall framework—has each of the companies—there are five companies in Victoria, of which there are rural companies and urban companies—with their own sets of price controls, controlled by the regulator. There may be a separation of the rurals and the urbans; there is expectation of some separation. What we are talking about then, in the case of the rural areas or the urban areas, is the regulator setting a fair benchmark price for providing the service to rural customers.

Senator McGAURAN—But he probably thinks it is fair.

Mr Gleeson—Maybe the word we should pick up on is ‘benchmark’; if the model that we are talking about is being benchmarked and we can actually do better than the benchmark, we will get the reward for it.

Senator McGAURAN—What is your rate of return? Can you answer that?

Mr Trevor Lee—We presented the profits of the two listed companies—not just the regulated part, but the regulated and unregulated parts—at a forum only two or three weeks ago. We were negative. The other company that was quoted, Texas, was very low. I forget the figures. The accounts of the regulated and unregulated areas are not separated. Of course, the unregulated earns more than the regulated.

CHAIR—Thank you very much. Mr Lee, you asked the question halfway through your submission: ‘Where do we go from here?’ You wanted some guidance from the committee.

We are interested in the socio-economic consequences of national competition policy. Your problem seems to be with the Victorian state government and, in particular, its regulatory controls over your industry. There is probably not a lot we can actually do. The evidence is of interest to us, but there is not much that we can do about it. We are a federal parliamentary committee that has come down to take advice on the impact of all these changes and, in particular, those sharpened to national competition policy. What you people seem to have a problem with is getting your money back. That seems to me to be the—

Mr Trevor Lee—That is one of the problems.

CHAIR—bottom line to it. With due respect, I am not going to ask you how much money you make or what colour knickers you are wearing today because I do not think you would want to answer either question. You might want to answer the latter one before you answer the former.

At the end of the day, from where I sit, it looks to me like you gentlemen paid too much for what you got. Unfortunately, you have a government that is quite happy to sell it to you at any price but then determine what price you could then on-retail it. I can understand your concerns, and I can understand the concerns of your share owners in the whole exercise. It is in fact what I have predicted. My own state is going down the same road now.

You can sell these agencies for whatever you want but, at the end of the day, if they do not make a profit and they do not make a quid, the state is the worse for it. I cannot give you guidance and advice other than to say that you have actually got your submission up under parliamentary privilege here and good luck to you, use it for whatever you want. But, at the end of the day, you are raising the issue of what is a fair and reasonable price for these sorts of assets and what the rates of return should be and how you should control as much of that as you possibly can. Or have I got that wrong?

Mr Trevor Lee—It would help us a great deal if your report made a recommendation to the government that there be an inquiry. I am not talking about Victoria; I am talking about a national inquiry by an independent body such as the Productivity Commission into, as I said in the earlier statement, whether the legislative background is sufficient to ensure that the proposals put by regulators and their actions are actually in accordance with policies.

CHAIR—But these are Victorian regulators you are talking about, are they not?

Mr Fearon—We have come here today saying that we do not deny that there are certainly issues and debates going on in Victoria. We are saying that the regulatory models being promoted nationally by all regulators are inimical of a framework that will give benefits to customers. We are not denying that there are obviously financial and shareholder issues that we are concerned about, but the fact of the matter is that incentive regulation is about aligning shareholder interests with the interests of customers.

The regulators in the United States, after 75 years of rate of return regulation, have finally realised that their constituents' interests will be advanced only if they are conscious of the regulatory frameworks they are putting into place. Whether governments desire to privatise or not—and that certainly is a political issue—the fact is that, once you have

privatised and you have grasped the nettle of competition, do not snuff it out by putting in a form of regulation that essentially goes backwards. The point is that the form of regulation goes to the heart of not just fairness and equity, which are very important considerations, but also the incentives in regard to which the whole framework that was put in place in the first place—to deliver benefits to customers.

Our businesses and shareholders will make more money if our customers are better off and their interests are maximised. Our businesses will not make more money by relying on a regulatory regime. We are not talking about removing the price caps. We are not talking about rural/urban cross-subsidies. We are not talking about any of that. Those can all stay in place. We are saying that, if governments do privatise, do introduce competition and then do not realise that the form of regulation is important, all the perceived benefits will trickle away.

CHAIR—What exactly do you want to do? If you do not want to lift the price caps and if you do not want to stop the country service obligation which is in this state, what exactly do you want to do? What are you allowed to do now that you fear these people will come along and stop? I am at a loss here to understand exactly how these regulations are threatening your business.

Mr Gleeson—The concern is the way in which they set prices that come along after the event and if we have made innovations, they will then immediately take away any upside that we have created. Rather than fairly sharing them between us and the customers, we are concerned that they will take away any of the value that we have created too quickly, which in turn creates the feedback loop whereby we will not have the drive for innovation because we will see that we will not get sufficient upside for the risk that we are taking on.

CHAIR—You are not going to be profitable enough to spend money on R&D, is that what you are putting to me?

Mr Gleeson—That is part of the story, yes.

Mr Trevor Lee—There is no incentive to do it.

CHAIR—As I understand it, some time in the year after next, all bets are off, is that right? There are two companies here. You can compete with each other. When I want to cook the Sunday roast I can determine whose power I am going to use, is that right or wrong?

Mr Gleeson—If I can just clarify that the industry is segmented into the generation, the transmission. We talked about that a few minutes ago. We do not represent that but there is a distribution arm and a retail arm and the retailer is the broker who puts the deal together, buys the generation—

CHAIR—That is not you blokes?

Mr Gleeson—We are the retailers and distributors. As you say, the retail aspect of it is that all bets will be off, that we will be vigorously competing. But the distribution arm is

still acknowledged. It is the poles and wires. It is a natural monopoly and we acknowledge that will continue to be regulated.

CHAIR—I understand all that but, at the end of the day, when I cook my Sunday roast, if I happen to live on the Mornington Peninsula, I am getting power from you whether I like it or not. If I were in Bendigo, I would be getting it from someone else. In a couple of years or at some fixed time in the future, I can actually ring up and say, ‘I have a roast to cook. It is three kilograms. I want so much electricity.’ I do not believe all this stuff, but this is what I have been fed and told. I generally believe most of what I am fed and told, but this is a bit far-fetched. In the future, apparently I can decide which one of you is going to provide me with enough power to cook my three kilogram lamb roast, is that right?

Mr Gleeson—It would still come through our poles and wires.

CHAIR—Yes, I know that. I know it is going to come down your poles and wires, but it may be his electricity because he looks like a fairer fellow and he might sell it to me more cheaply. At the end of the day, is that what you are trying to stop?

Mr Gleeson—We do not have a problem with your buying power from someone else, but there will still be price regulation for our poles and wires that get it to you—

CHAIR—Of course, transmission.

Mr Gleeson—and that is the bit we are talking about.

CHAIR—I think I now have a bit of an idea about what you want.

Mr Fearon—Competition will look after the energy side; the same with telecommunications. By and large, it is Telstra that has the infrastructure there and you have all your re-sellers who are active in the market and on the TV, and you can buy your call minutes from a large number of people. That is equivalent to our electrons. You can buy that from anyone, but the underlying poles and wires is what we are talking about, which is the regulated part of the business. It still represents a very significant portion of somebody’s total bill.

Generally speaking, you will not be able to change it. If you were in a rural area and you have problems with the supply, it is not because the retailer cannot get the electrons to you, it is because the transport that he is trying to get it along is not working. So, in terms of the critical thing that customers are interested in, which is reliability, it is not a retailer issue of the ability to manage. It is the regulated poles and wires. What we are trying to get across is that, if the overall regulatory framework is not set correctly, you are not going to get businesses incentivised to focus on that issue of reliability and, for the bit they control, the price of delivery.

CHAIR—We are going to have to go in a minute; I just want to say this to you. There are two of you represented here. There are five of these organisations in this state. I understand that New South Wales is broken down into three, albeit all government owned, but there are three different groups over there that presumably will compete against each

other at that time in the future. The South Australian system is now up for sale to the highest bidder and I have some fears that we are going to go down the same road as you blokes. Someone is going to pay too much and then they are going to want to get it back off me, the consumer. That is all right. They just transfer state debt over to private corporation debt and I pay it. Instead of paying extra to register the dog, or whatever, I have to pay you blokes more for your tariffs. That is fine, but have you thought about setting up an organisation to represent the whole lot of you? I think that is something you are going to need to do. If you really want to take on all these regulators, and all the rest of it, you are going to have to get the act together.

Mr Gleeson—There is an organisation out there that represented the whole industry and did so before privatisation and that is a body that we certainly work through. But we take on board your recommendation that, yes, we need to work on that sort of approach.

CHAIR—Thank you, that has been a rather fascinating submission. I found it very interesting. I am sure Senator McGauran did; we could not shut him up.

Mr Gleeson—Thank you.

[2.18 p.m.]

LEE, Mr Timothy Kevin, Assistant National Secretary, Australian Services Union

CHAIR—We do prefer all evidence to the committee to be given in public but, should you at any stage wish to give part of your evidence or answers to specific questions in private, you may apply to do so and the committee will consider your request. I now invite you to make a brief opening statement and, at the conclusion of your remarks, we will invite committee members to ask you questions.

Mr Timothy Lee—As you know, we have prepared a written submission. In fact, we put in a preliminary submission and then a supplementary submission to this inquiry. We did so because the Australian Services Union is a union of 150,000 members, with probably 100,000 of those members working in the public sector. The national competition policy has had a fairly dramatic impact on our areas of membership, and we have had a very strong interest in it.

For the record, the Australian Services Union's membership is extensively in local government, both in the so-called blue-collar and white-collar field. It is also in the electricity and water industry and, by and large, they are probably the major industries in which NCP has had an impact on us. Obviously, we also have an interest in the gas industry, particularly in Western Australia.

The ASU has a long history. I have had a long involvement with the development of national competition policy, including being involved in the ACTU group that had some discussions with George Gear who had, as Assistant Treasurer when the Keating government was in power, responsibility for dealing with this matter. We had many discussions and many meetings with George Gear and representatives, and we did secure some changes that we thought improved slightly the operation of national competition policy.

However, particularly in the supplementary submission that we have provided to the committee, we have canvassed a lot of the issues that we still thought were relevant then and we still think are relevant now in the way that national competition policy operates or does not operate effectively. In that sense—I know the committee will have a lot of material to get through—apart from the lengthy arguments that are in our written submissions, I draw the committee's attention at this point, in case I forget later, to pages 9 and 10 in particular of our supplementary submission. In those couple of pages, I tried to succinctly put the issues that the ASU believes that national competition policy principles require amendment to provide for and in six or seven dot points some proposed recommendations that we say that the committee should give consideration to. By and large, a lot of the material that is in the written submission goes to not only the impacts on workers' conditions of employment, which are obviously of concern to us, but also concerns about quality of service and so on, which have flowed from the operation of national competition policy.

The last thing I will say in my opening statement is that there has been a recent decision by a full bench of the Federal Court which we think that this committee should have regard to. That decision impacts upon the fifth dot point on page 10 of our supplementary submission. That dot point reads as follows:

Competition will not be based on the reduction of wages and working conditions of employees and that legislation be amended to ensure that employment conditions are transferred from public to private sector employees in contracting out situations as occurs in Europe.

As is detailed in the submission, in Europe there has been for some time in the European Community what is known as the 'acquired rights directive'. Each European Community member is required to enact legislation which gives effect to that directive, as they are with any other directive. In the UK—the jurisdiction I am more familiar with—they enacted the 'transfer of undertakings protection of employment', which came to be known as TUPE, as their giving effect to that acquired rights directive. In short, what that directive requires is that, if a service is contracted out across Europe, then the conditions of employment that were enjoyed by the workers—let us say they were previously employed by a council in the UK—are, in fact, remitted to the contractor that takes over the employment, and that is law in the UK and law throughout Europe.

In Australia, there has been uncertainty about whether or not we have a similar entitlement here, until very recently. I say that because the provisions of the Workplace Relations Act 1996, particularly sections 149 and 170MB, on which the national competition policy sought to rely, provide for a successor organisation to a business or part of a business to take on, in effect, the award and certified agreement that used to apply in the business before the service was transferred. Until recently, there has been uncertainty about whether contracting out was a transfer. Let us take the electricity industry as an example. If you sold—as has occurred in Victoria—the whole of the business, there is no doubt that transmission has occurred and conditions of employment go across. But if you contract it out, what does that mean?

A full bench of the Federal Court has recently upheld a decision of Justice Marshall, which found in one case, the case of the contracting out of psychiatric services by the state of Victoria, that a transmission of business had occurred in that circumstance. For us and for any worker, effectively, who has been involved in a contracting out situation—whether they have been contracted out from a private sector organisation to a private sector organisation, so whether it is someone who is cleaning for the Sheraton Hotel and they contracted out the cleaning perhaps, or whether they are working for the local government mowing the lawns and they contracted that out to SERCO—it does not matter. This decision, we think, means that the judicial interpretation of that section now means that their conditions should be protected on transfer, something we think should always have been the case.

In terms of the fifth dot point on page 10 of our supplementary submission, we think now that one of the recommendations of this committee should be not necessarily that you make legislative changes to give effect to the type of European legislation but rather to make a legislative change to the Workplace Relations Act which would make certain now this recent judicial outcome.

Senator McGAURAN—Wouldn't the no-disadvantage test cover that?

Mr Timothy Lee—The no-disadvantage test applies when one is making an Australian workplace agreement or a non-union enterprise agreement or any type of enterprise agreement. When work is contracted out usually two separate situations occur. If the

contractor that has successfully tendered for the work is already covered by an award the issue often is—perhaps one of the reasons the contracting out occurred in the first place—that the conditions of employment may be inferior. That was the case at first instance that has just been determined by the full bench. In that situation—let us stick with the council analogy—the award and agreements that covered the workers while they were working with the council will now bind that successor employer. In the second situation, the contractor may have been award free. The same situation applies. They will still have to abide by the award that comes across. In the first situation, where the two awards crash together, if you like—and the question for the employer might be: which one do I apply?—the decision was effectively found that they should apply the one that is at the higher rate. That was the effect of the decision.

Senator McGAURAN—I did not quite understand. You were talking about the competitive tendering out. I was thinking of, say, when they sell a power station and they shed a lot of their workers. Those that remain, due to the no-disadvantage test, can be paid no less than when the government owned it. Is that right?

Mr Timothy Lee—To be clear, in a situation where they sell the power station, the no-disadvantage test is not really an issue. When an organisation is sold that is clearly a transfer of ownership and so they are clearly entitled to the same conditions that they had previously, those that are left. So the no-disadvantage test does not really come into that.

CHAIR—As I understand it, one of the reasons why a lot of these organisations are sold is precisely that—to get rid of a large number of your members. It is one of the ways in which corporations then come in and make a lot of money. Certainly, in my experience they are happy to pay the residual work force, but there is only a certain group of the work force they want to keep on.

You are putting to us here that you would like to see the same sorts of arrangements as in Europe. What exactly happens there? There has been a lot more privatisation in Europe than there has been here. Mrs Thatcher alone is responsible for a lot more than has ever happened in this country. What happened there? Were all the employees kept on or were the arrangements that they would take a package and all the rest of it? How does the legislation work there?

Mr Timothy Lee—There is a distinct difference. What I am proposing is not as ambitious even as what occurs in the UK and the rest of the EC, and that is the transfer of undertakings. Protection of employment does just that. It does not just protect the conditions of employment, it also protects the jobs. So on transfer all of the jobs are required to go across as well.

CHAIR—Is that forever?

Mr Timothy Lee—No, it is not forever and so it does change. It means that all of those employees have a right to continue on in employment. However, they also have a right to voluntarily accept a redundancy package similar to what occurred in the Australian industry.

CHAIR—But isn't that what happens here generally?

Mr Timothy Lee—That is also what has happened here generally. There has been voluntary redundancy. But the big issue has been what had been the conditions on transfer. The electricity industry is probably a unique case, particularly the Victorian situation. In most instances, because it has been a sale, the conditions of employment have continued on. There has been no question about that.

CHAIR—But there have been a fair number of reductions of people working in the industry, no doubt quite a number of whom would have been your members.

Mr Timothy Lee—Absolutely. The electricity industry, for example, was downsized. You are looking at the Latrobe Valley being a ghost town now, effectively, as a result of the downsizing. A lot of that occurred prior to the privatisation. The public sector owned organisation downsized significantly prior to the sell-off.

CHAIR—You would have covered with the ASU the white-collar workers that would have done the billing and all that sort of work?

Mr Timothy Lee—That is right; clerical workers. We also cover power station operators and those types of classifications in the electricity industry. In the water industry there is similar coverage in terms of white-collar workers and blue-collar workers. In local government we cover blue-collar and white-collar.

CHAIR—Let us go through each of those sectors in turn. Obviously in electricity and water there would have been a substantial reduction in the number of white-collar workers that you may or may not have represented but would have been in that industry. Is that right?

Mr Timothy Lee—That is correct.

CHAIR—In local government, as I understand it, national competition policy has affected primarily the blue-collar work force, not the white-collar work force. Your members would have been members of the old MOA, wouldn't they?

Mr Timothy Lee—That is correct, but also members of the old MEU.

CHAIR—They have not suffered as badly?

Mr Timothy Lee—Again, it is similar to what occurred in the UK. In the UK the legislation that impacted in a competition sense on local government was to say, 'Here are the services that you must competitively tender.' They started off in the blue-collar sector and later they went to the white-collar sector. In Victoria, which is still the only state jurisdiction that has compulsory competitive tendering legislation and had it before national competition policy was even talked about, they absolutely went for the blue-collar areas first in terms of competitive tendering. The reason for that, quite frankly, would have been that there was more experience with tendering out those sorts of services. So that is where they

started. But it is now moving well and truly into the white-collar areas. But it has been a second wave, to use a term that is being used currently.

CHAIR—How has your organisation adjusted to this? Have you gone out and tried to sign up membership in the different companies that tender with private companies? Or is it simply the case that you are required, because of the award structure, to stay within the bounds that you have operated in until now?

Mr Timothy Lee—No, absolutely not. We have attempted to, and we have had some success in recruiting and getting award regulation for the new contractors moving into the area. The change has been that some of those firms, multinational firms, I would say are anti union in their approach and tend, through a combination of coercion and fear tactics, to operate in a way that discourages people from exercising their industrial rights. In that sense, it is difficult—it has been more difficult—to secure protections for those workers, particularly in the environment which has resulted from the changes to the Workplace Relations Act, and even in attempts now to secure an award through arbitration, if necessary, which is certainly still available. While that can be achieved, the conditions are almost always inferior to those previously enjoyed, and it does not stop the employer working towards getting those employees on a non-union enterprise agreement or an Australian workplace agreement and individual contract.

In some situations, that is in fact the path we have been down. We have secured awards only to have them trampled over by fairly inferior documents. It is at that point that Senator McGauran's issue of the no disadvantage test comes in—and I would have to say, Senator McGauran, that, in those circumstances, the no disadvantage test tends not to be a rigorous enough one in the sense that the overall approach the commission is to have regard to leads to most agreements going through unless they are reducing conditions of employment in an absolutely outrageous way.

CHAIR—In terms of national competition policy and efficiencies that have been generated or argued—and I have asked this of other organisations—is it your view that national competition policy has been worth it?

Mr Timothy Lee—No, I do not think so. I would say this—and I have been saying it for some years now—I think that, within the areas hit hardest by competition policy, there was room for change, and there was room for improvement. My view is that there was enormous scope, which was never realised, for improving the performance of public sector organisations through proper processes of benchmarking and continuous improvement—indeed, processes that successful private sector organisations have used. But instead, I think, on an ideological bent, national competition policy, while having the appearance of taking a balanced approach, led to pressure for privatisation. It led to pressure for the sorts of issues I heard being discussed in the hearing prior to my appearance—the issues of elimination of cross-subsidisation. It has led to further pressures for absolute deregulation. It has become a cover by which industry has sought to roll back every rule in the book in order to maximise their profits at the expense of—I think—access to quality services for people, particularly in regional and rural Australia, and at the cost of a decent quality of services for people even in the urban areas.

But I do say that I think there was room for improvement and that that improvement could have been achieved without it being an extremely costly exercise. Take the example of the operation of competitive tendering in local government. There is no doubt in my mind that in local government you could have improved the performance of a range of services. Some of the white-collar areas have not been tendered because there is no market for their service—libraries, for example, where attempts have been made to competitively tender them in Victoria. But no-one else runs libraries except local government. So, unless local government starts tendering to do everyone else's library, it becomes quite bizarre. Nevertheless, organisations have actually gone through the charade—

CHAIR—I suppose the local video store could bring in some expertise, couldn't it?

Mr Timothy Lee—You should not joke, Senator, because that was actually discussed in one particular council. There is no difference between lending a video and lending a book.

CHAIR—I would not let my local video store run a library; I would be evicted.

Mr Timothy Lee—Yes, your late fines would be going up to \$6 a day. Those sorts of processes make a mockery of any benefit of the competition itself. The cost of going through the competitive tender—and this is probably the key point—to try to secure improvements in efficiency is extremely expensive. Even if there is any improvement at the end of the day, in terms of efficiency, the question is: at what cost? One of the big questions this committee should be asking—and, again, all of this information has been alluded to in my submissions—is: how much does it cost to go through a competitive tendering process?

In local government in Victoria, where 10,000 jobs have been shed as a result of these processes, what has been the cost of undertaking these so-called bids? You need to look at the amount of time people spend not actually doing what it was they did before—whether it was mowing lawns or providing a home care service. People who actually did those jobs have to spend time off the job writing down and contributing to the specifications and working out how they are going to put in their bids and compete to continue their jobs. Consultants are brought in to assist with the bidding process, teams of evaluation panels are set up to oversee it and lawyers are brought in to write huge specifications for jobs where once upon a time, quite frankly, the boss said, 'This is what I want to have happen,' and could change direction from day to day. But now, once you move to a third party regulation through a system of contracts—and we are talking about quite fundamental core services of government—you end up with an extremely expensive way in which you allegedly are seeking to improve performance.

So, in answer to your question, the answer is no, I do not think national competition policy has been worth it. I think that a number of things have come to be put under the national competition policy umbrella. I mention specifically that compulsory competitive tendering in Victorian local government predates national competition policy. The Premier conveniently says, 'It is national competition policy but it is just that we got ahead of the game.' In fact, national competition policy does not say anywhere that compulsory competitive tendering is required for any service.

An issue for governments of any persuasion is that state governments will, and do, run around saying, 'We're doing this to fulfil our requirements under national competition policy.' Since your average person in the street would not have a clue, quite frankly, what is actually inside that black box called national competition policy, they will believe it—they do believe it. When Jeff Kennett was selling off the electricity industry, he said, 'This is about national competition policy.' There is nothing in NCP that says you must sell off your electricity industry—nowhere. The New South Wales government is not going to sell off theirs, and they will still comply with national competition policy.

The other key thing I want to make mention of is that there is a little used—or not even touched upon—but useful provision in national competition policy which goes to the question of whether it has been worth it. It is something I noticed in the *Hansard* record of debates in the Queensland parliament, where I was pleased to see a possibly historic agreement between the National Party and the Labor Party on this very issue—where both sides of the House called for the removal of the National Competition Council and urged a serious look at and use of a public benefits test which has always been in the national competition principles. The public benefits test asks that jurisdictions, before they make any decision to implement national competition policy, look at and ask some questions about what it means for social welfare and equity, for industrial relations, for quality of services and for employment—which would have to be a fairly major factor, I would have thought.

This committee should be asking how often—if, in fact, ever—anyone is actually undertaking these public benefit tests. Are people undertaking public benefit tests, at least in terms of the criteria of what is happening to rural and regional Australia as a result of this policy? While you are in Victoria, I will give a Victorian example of the town of Beech Forest in the Otways. Five years ago that town used to have the rates function for the shire of Otway. It had a council depot, a Conservation of Forests and Lands depot, a maternal and child health centre, a post office and a pub.

CHAIR—And a pub.

Mr Timothy Lee—And a pub. What is the only institution that is left in that town now?

CHAIR—The pub.

Mr Timothy Lee—The pub is the only thing that is left: it is a ghost town—nothing left. That story is repeated over and over again across Victoria. The reason that they have gone? Cutbacks from Conservation of Forests and Lands, amalgamations and contracting out of local government: they do not need the depot anymore, and everything goes to Colac, the regional centre. You can tell that story over and over again. In terms of what benefit national competition policy is bringing, the big question is this: if there is any, then who is getting the benefit?

CHAIR—We had better leave it there. Thank you very much for your evidence.

Mr Timothy Lee—Thank you very much.

[2.48 p.m.]

FIELD, Mr Christopher James, Executive Director, Consumer Law Centre, Melbourne, Victoria

LOWE, Ms Catriona Elizabeth, Legal Policy Officer, Consumer Law Centre, Melbourne, Victoria

CHAIR—We do prefer all evidence to the committee to be given in public, but should you at any stage wish to give part of your evidence or answers to specific questions in private, you may apply to do so and the committee will consider your request. I now invite you to make a brief opening statement. At the conclusion of your remarks I will invite committee members to ask you questions.

Mr Field—I will start by simply contextualising the work of the Consumer Law Centre, Victoria. We are one of 40 community legal centres in Victoria specialising in consumer legal issues, but that specialisation also has a broader approach across public interest issues. In our experience at the centre, now over five years, we have had substantial experience in relation to privatisation issues, contracting out and matters around national competition policy generally.

I also want to suggest from the outset that we are very supportive of the Australian Parliament—both its original committee and the reformed committee—examining the concepts of national competition policy and especially its impacts upon the community sector in particular. We think it timely that that examination is now taking place.

We are concerned, however, at two levels in particular about national competition policy, and I will outline both of those. Our first level of concern is that national competition policy has become almost a mantra rather than a tool of public policy and that that policy is now driving changes in Australia so that the process is dictating the outcome rather than the outcome being what we ought to focus on: which appropriate tool of public policy we ought to use to get there. Even if it were not accepted that that was the case and that national competition policy has not become too primary a policy tool to achieve proper public policy outcomes in Australia, we suggest that the outcomes of national competition policy are almost entirely price focused as opposed to service focused.

That price focus has forced, in our view, a number of deleterious outcomes for consumers—in Victoria in particular, which is our experience, but also more broadly in Australia. We see those sorts of outcomes, at the moment, in relation to the privatisation of public services and the introduction of a contestability competition for private services, in particular in Victoria. I will talk about some of the recent asset sales that have occurred here. That principal price focus means a loss of service, and that is the complaint that we hear, on the ground, from rural and regional Victoria and from consumers generally.

Further to that, we also wish to specifically rebut the suggestion that is made in the recent National Competition Council report on the progress of NCP, that any particular tools used by government, such as contracting out, are not a necessary element of NCP. We think that, in fact, they have become that. Indeed, the position of the NCC—that Victoria is an

absolute leader in relation to the applications of national competition policy—suggests strongly to us that the tools by which the Victorian government has undertaken to change public policy, such as contracting out and privatisation programs, say that that is exactly what the outcome of NCP is.

Our particular focus, as a community legal centre, is on the low income and disadvantaged members of our community. We see them on a daily basis being made worse off and more impoverished by the application of competition policy principles in general. We further suggest, along with the original architects of NCP, that its wholesale application to the human services sector has resulted in the application of competitive principles to a sector to which those principles are, effectively, antithetical: that is, non-competitive services delivered in a non-competitive, collaborative, sharing, community orientated way.

CHAIR—Thank you. Ms Lowe, do you have a statement?

Ms Lowe—I would like to add a couple of things that were contextualised in our first or second submission and that have progressed further since we made those submissions. In our initial submission, we addressed the issue of competition and its application to community legal centres and the deleterious effect that it could have on access to justice for members of the community. The reform of community legal centres, as you are probably aware, is now in progress in Victoria; and certainly the report commissioned by the government and the findings of the consultants do nothing to assuage any fears that we had about the effects of those reforms on access to justice.

A second point is in relation to utility reform. Our centre has recently completed a broad ranging report which examines some of the effects of the implementations of privatisation and competition, particularly in the electricity industry. That report unequivocally finds that it will disadvantage, in particular, low income and disadvantaged consumers and may in fact generally disadvantage the majority of domestic or household consumers.

CHAIR—Thank you. Senator McGauran will open with questions.

Senator McGAURAN—I do not have many questions. I am intrigued by your organisation. I have not come across you before. I was quickly reading the short brief you have given us. You say that you resulted from a 1992 court case in relation to consumers. Who are you? How do you operate? I am not sure what your interest would be in, for example, national competition policy. Where is your link with them?

Mr Field—Perhaps I can answer that on two levels, both from the sense of the organisation in the first instance and then how it strategically decides what it ought to be involved in. In 1992 there was a court settlement through the Consumer Credit Legal Service, which successfully won a case against Household Finance Corporation. It resulted in a large settlement of money. Those moneys could not be apportioned back to the consumers who had suffered from the selling practices, so there was left a decision as to where to put them, and the funds were apportioned to the establishment of a specialised consumer law centre. We are, in that sense, the only specialist consumer law centre in Australia.

Senator McGAURAN—Do you take up cases for people?

Mr Field—We do not have an extensive case work practice. The original mandate, set out in our constitution, was as a policy advocacy and lobbying organisation. There was seen to be a dearth of that sort of public interest policy advocacy coming from Victorian community legal centres at that stage, and a specialist centre which would look at those issues was seen to be desirable. The centre had at that stage a finite life of 10 years. There has been some revision to that subsequently, but it is a centre that is funded exclusively from its trust fund—apart from any opportunistic funding that it receives from government, private sources or otherwise. In that sense it is independent and perhaps more independent than other community legal centres.

To say how we strategically involve ourselves in NCP, the centre has a series of stakeholders, for want of other jargon, in the sense that the people that we see have a real interest in consumer issues, and those people are consulted with every three years to ask where we should take our centre. Clearly it takes in the interests that we have and the interests of our board. We have a board of directors, we are a company limited by a guarantee and we have the appropriate accountabilities in that sense. At the moment, our interests range across privatisation of public utilities and public transport. We have a real interest in the national competition policy and its effects, and we have an interest in general fair trading and access to justice. That is partly because of the interests of the centre, the board and our stakeholders as well.

I should say that Consumer Law Centre, Victoria and Consumer Law are possibly slight misnomers in some ways, as may be for somewhere like the Australian Consumers Association. We really do have a broader public interest mandate and, in that sense, we sit slightly closer to the Public Interest Advocacy Centre in New South Wales and, if you like, perhaps the even earlier Ralph Nader sort of model of consumerism. The fact is that we actually speak much more broadly across a whole range of issues, seeing everyone as a consumer. It is more what we do not do than what we do do. There are too many things to do, but one of the areas we do look at is national competition policy, because it clearly does have an effect for the sorts of constituents that we are concerned about.

Senator McGAURAN—I see that you have two nominees of the Victorian Minister for Fair Trading on your board.

Mr Field—Yes.

Senator McGAURAN—Very good. You say in your submission that you have had some workshops in relation to NCP. Who attended the workshops? What range of people?

Mr Field—I will talk about the conference, and Catriona, who effectively supervised those workshops, might advance that side. Our conference was held last year on 31 July and was available to, and advertised to, the community sector broadly and to academics and government, to examine the impacts of national competition policy. We had a broad range of speakers and there was an examination of that by around 250 people who attended. There was a fleshing-out of the various issues and how they impact upon the community, and then it was decided to do the workshops from that. Catriona might want to expand upon that.

Ms Lowe—The workshops flowed on from the conference because some of the feedback that we received at that conference was that many members, particularly of the community sector, had been unaware of the broad ranging, overarching nature of national competition policy. They may have come into contact with contracting out, they may have come into contact with privatisation through the sorts of work environments they were in, but they were not necessarily across the fact that it was a coordinated, overarching policy. So one of the purposes of the workshop was to provide some very basic information about what is contained in the COAG agreements, what exactly were signed up to, and what the various planks of the competition policy were.

I suppose the other focus of the workshops was to examine the public interest test in particular, or the cost benefit test, and the ways that it had been applied. We had speakers there from a variety of organisations including the National Competition Council and the Department of Premier and Cabinet in Victoria, as well as a number of members of the community and community sector.

Mr Field—We should say that a residual concern of ours flowing from the workshops is that education on the role of the NCC was demand side driven. It came from our sector, which seems to me to be a somewhat strange outcome. I have raised this matter with Graeme Samuel, and Deborah Cope from the NCC spoke at our workshops. Clearly, the NCC report on the progress of NCP tends to suggest that the community is aware, in so far as they need to be aware, of the outcomes of NCP and the way it works, its methodologies and its policy and principles.

In fairness to Graeme, he was very supportive of the concept of education. I have unfortunately just not seen a lot of evidence of that. We really ought to ask the NCC and the government why it is that there is so much confusion at the ground level so that we were swamped with inquiries to run a workshop to explain that concept to the community sector generally. There has been a real absence of that sort of explanation, just explaining it, quite apart from answering criticisms of the policy.

Senator McGAURAN—You hold the view that social services should not be subject to NCP or competitive tendering. Is that right?

Mr Field—Yes, on the whole.

Senator McGAURAN—We were given evidence this morning that the Phillip Council take that view too. I suppose you have covered yourself by saying ‘on the whole’. There will always be the exceptions, but what makes you say that because I can think of examples where the Brotherhood of St Laurence does it better.

Mr Field—I do not want to be a lawyer and put too many qualifications into what I say. My view is that you would always have to prudently look at any given example of an application of competition policy to the social sector. I want to have a robust and clear view about that.

On the whole, we completely do not agree with the application of competition principles to the human services sector. As a matter of philosophy, the application of competitive

principles to effectively anti-competitive services is logically antithetical and does not work. We think it has resulted in real deteriorations both in the ethic of the way that service is given and in the ultimate service that consumers receive.

You asked for examples of how it does not work. Contracting out is an example, CCT. If you look at the sorts of studies that people like Graham Hodge have done—the experts in relation to these areas—they generally tend to suggest that there are real benefits to CCT, and local governments have benefited from its adoption, but it is in relation to non-human services like garbage collection. Garbage collection is a lot better contracted out and you get much better price results, but it is not the case for human services. That evidence abounds in the literature. There is a majority feeling that that is the case. We certainly set that out in our report.

Ms Lowe—Hilmer himself expressed reservations in relation to the application of the policy in that area, as did the then Assistant Treasurer, Mr Gear, when the legislation was being introduced. It was recognised that human services, which traditionally fall in an area which is an example of market failure, should not then have those market principles reapplied to them.

Mr Field—CCT has always struck me as a strange concept in any event. If you were running a private business you would operate CT—competitive tendering. You would look at every unit of your business and check to see which parts of it would benefit from contracting out and which would not. Compulsory competitive tendering strikes me as a strange concept, to have to absolutely have to competitively tender out everything regardless of whether we actually think it is the right thing to do in relation to price or service outcome.

It is certainly the case that American literature indicates that there was a great acceptance of CT, competitive tendering, in American private business but that there has been a real contraction from that position, partly because of the loss of control and loss of service you have when you contract out services.

We see this on a daily basis in utilities where they contract out things like debt collection functions and those debt collectors then behave in a most abhorrent way. The companies become mortified by it and the only way they can control it is to bring it back in-house.

Ms Lowe—Furthermore, just to pick up on that utilities example, you then have the statistics which record a drop in some of the bad practices quoted back to you as an example of why the policy is working when, in fact, what has occurred is that you have simply returned to levels of, say, disconnection or undesirable debt collection practices which were in place prior to the introduction of the policy.

Senator McGAURAN—You said that at your conference people gave examples of the public interest test and how it was applied. Is that right?

Ms Lowe—It was not an example so much as a discussion. It would be fair to say that the majority of participants in the workshop were not aware of, for example, the legislative review process and the application of the test in that context.

Mr Field—There was critical discussion at the conference about the public interest test. People like Tim Lee were speakers and so there was obviously a critique of the concept of the public interest test. At the workshop it was more our endeavour to be fairly transparent about it. It was not so much a critique but an explanation so that people actually knew how the process worked. If you wanted to be involved in the review we explained how you would do that. The legislative review process is not an easy process to follow, and neither is the question of what is public interest.

Senator McGAURAN—There is no definition, really, of public interest, it is how each council wants to apply it, isn't it?

Mr Field—That is right. You have the real difficulty of deciding what is a micro public interest. Your local government has a public interest and you must decide whether that is in the broader interest of Australia as a global nation as well. Balancing the public interest test for its micro and macro levels is one difficulty.

Senator McGAURAN—Except to say that we have a newspaper article here which shows that the Queensland government is clashing with the national competition policy people who are holding up their payments. The Queensland government is not willing to deregulate the dairy industry. The Queensland government will say that in the public interest they are not willing to deregulate, but obviously there is a line where the national competition policy will clash with you, there is a boundary to it.

Mr Field—If someone asked me tomorrow whether you ought to introduce contestability to the retail electricity market in Victoria, my answer would be no. Residential consumers would be worse off and those people most in need of protection in our community—low income and disadvantaged people—will be worse off. It is an impoverished public policy concept to do it.

My real concern about NCP—I do not want to be too grandiose about it—is that it is really becoming a driver for the loss in the community of the concept of a commitment to a safety net and a commitment to people who are worse off. I also see on a daily basis in the papers now the incredible gulf between the rich and the poor in Australia, and I think NCP is a driver of that. That is a policy outcome which we ought not be leaving to the next generation of Australians.

Ms Lowe—That is right. And may I also say that that widening gap, if you like, is a matter, along with the disparate effect between rural and urban centres that the policy has, which is recognised in the report made by the National Competition Council. There is a considerable effort in that report to address the rural question. There is not an attempt to address the widening of the gap between rich and poor, and it is a question that must be addressed.

CHAIR—Just a few questions. I think you have answered most of them anyway. Let us just get a feel for the organisation you are in. You are the executive director, Mr Field; is that right?

Mr Field—Yes.

CHAIR—That is a full-time position, is it?

Mr Field—Yes.

CHAIR—Where do you get your funding?

Mr Field—From the private trust, on the whole. It was that trust that developed out of the court settlement—literally into a trust, in the legal sense of the word trust. We survive upon the draw down from that trust and also the interest. The interest itself is not enough to sustain the organisation, and we have to draw down upon it; hence we only have a finite life.

We also get some opportunistic funding. We look for projects which have some synergy with our organisation, and which we actually think are appropriate for us to undertake and will not compromise our independence. So, from time to time, we take funding from government in relation to specific projects, or private industry or, much more particularly—because it has a real sense of independence to it—philanthropic trusts wherever possible. We take money in those ways for projects.

I am the executive director of the organisation. Catriona is our legal policy officer and, effectively in that role, a principal policy officer; she is full time as well. We have a full-time administrative staff. We have a part-time finance officer. We have a part-time coordinator of consumer representatives on the Standards Australia committees—if anyone is familiar with that organisation. We currently have at least two or three projects that are close to starting in the centre, including one looking at access to low income housing and also one that will be a dedicated demand side advocacy unit for utilities advocacy. At the moment, although there is some growth and change in this, we also house the public interest law clearing house in Victoria, which is a pro bono clearing house for legal matters—a very successful one that also has a New South Wales model. There are three staff involved in that.

CHAIR—What sorts of persons come to see you for advice?

Ms Lowe—A very wide range.

CHAIR—I am just curious.

Mr Field—It is a legitimate question. It is very hard to tell. Partly, we do not do the studies on these sorts of things that, if we had more resources, we probably would. All I would say to you is: any consumer who perceives having a legal problem. I have got to say, as well, that a lot of our inquiries come from the public things we do. So when we appear in the media, in the next day we have 100 people ringing up about that particular story. It is very different, depending on the circumstances of what we are involved in at the time.

CHAIR—Do you prosecute this through courts?

Mr Field—We do, yes. We have a mandate, which is simply that we develop policy in conjunction with other organisations—the Victorian Council of Social Service, Environment Victoria and other legal centres. We develop public policy, we advocate for that and we use

the various tools that any other non-government organisation uses to advance what they think are the appropriate policy positions. One of those tools is litigation, so we are currently planning a major piece of litigation at the moment about gender inequality or price discrimination against women. So we have various tools available to us, and that is one of them.

CHAIR—Thank you very much. I just wanted that background when I look at your submission.

Senator McGAURAN—What is an example of a price discrimination against women?

Ms Lowe—That one of my work shirts cost \$3.75 to dry-clean and one of your's costs \$1.75.

CHAIR—What costs \$1.75?

Ms Lowe—Dry-cleaning for a business shirt.

CHAIR—You had better tell me where I can get it done for \$1.75.

Senator McGAURAN—That is an excellent example.

CHAIR—I am currently paying a bloke I know a lot more than that.

Ms Lowe—True Care, Elizabeth Street.

CHAIR—Good luck.

Senator McGAURAN—And there is no reason for it?

Mr Field—No.

Senator McGAURAN—Really? That is interesting.

CHAIR—Thank you very much. Good luck. Good hunting.

Mr Field—Thank you for your time.

[3.17 p.m]

FISHER, Mr Timothy Gordon, Natural Resources Campaign Coordinator, Australian Conservation Foundation

CHAIR—I welcome the Australian Conservation Foundation. We do prefer all evidence to the committee to be given in public, but should you at any stage wish to give part of your evidence or answers to specific questions in private you may apply to do so and the committee will consider your request. I now invite you to make a brief opening statement and at the conclusion of your remarks we will invite committee members to ask you questions.

Mr Fisher—Our primary concerns, in terms of national competition policy, are that it is implemented in the natural resources sector in particular. We come from a premise, I suppose, of the principles of ecologically sustainable development. One of those is the requirement that all resources taken from the natural environment be fully costed and fully paid for, and that there are not any market distortions, if you like, in markets for natural resources and the environment which allow for their overuse. Our major concern here is that in the last couple of hundred of years around the world natural resource use has been subsidised, which has been encouraging its exploitation at unsustainable rates. That has been one of the major impediments to moving towards ecological sustainability.

I have put in a submission and it has some attachments specifically relating to water and forest industries. Our work in water goes back to 1991, when we made submissions along these lines to the Industry Commission's water inquiry at the time, which led to the COAG water resources policy and so forth. We are pretty pleased with progress in that area. In terms of forests, we have also been concerned about subsidies and cross-subsidies and the effect that that has had on the competitiveness of the private timber sector. We have been less successful there.

In a nutshell, we are concerned about hidden, undisclosed or otherwise unaccounted for subsidies and cross-subsidies in the management of public natural resources or natural resources full stop—this is not limited to water and forests, but that is my area of expertise; it also covers land, fisheries, minerals and energy—poorly designed natural resource access; use rights and rights regimes which fail to accommodate the principles of adaptive natural resource management; the overexploitation of natural resources that results from that; and also the degradation of ecosystems dependent, or partly dependent, on sustainable use of those resources because of overconsumption of the resource. We also have outdated and inadequate institutional legal arrangements which, in particular, relate to unsustainable land use in agriculture. There are, of course, a range of competitive neutrality issues arising from natural resource subsidies.

In presenting this brief submission, I am not purporting to speak on any other areas of national competition policy. I will be honest: it is quite a sensitive issue within the environment movement, so I will confine my remarks to the natural resources sector. There are some provisions in national competition policy which relate to ESD policies and principles. To cut a long story short, we believe that inadequate pricing of natural resources does, by definition, lead to their exploitation and depletion at unsustainable rates. Pricing is

not the only instrument available but it is very important. Similarly, distortions in commodity markets such as timber, created by inadequate pricing policies, create a climate of unfair competition in which, for example, private plantation growers cannot compete—they are unfairly disadvantaged. If you want to grow trees on farms, you have to deal with very poor prices. This is not just an Australian issue; it is a global issue which I will come back to later.

There are some social issues as well and that is another of the issues that is supposed to be taken into account. I draw your attention to some inconsistencies. In Victoria we have catchment management authorities which rate land-holders for the provision of a community service in terms of river management—that is fine. However, in Melbourne it is treated differently. In Melbourne, water, as a state-owned corporation, runs its drainage as a business, and keep in mind that stormwater pollution is a major environmental issue in urban areas. So they pay taxes and dividends to state Treasury. We believe that that is inappropriate and inequitable treatment. It is inconsistent with the fact that that service is a genuine community service obligation for which there are no markets—we are talking about diffuse source pollution.

On the other side of the equation, another issue relating to CSOs is that many resource subsidies, such as proposals for new dams and so on, particularly in Queensland at the moment, are justified on the basis that it is a community service obligation. We do not accept that whatsoever. It is entirely for commercial gain. We have done the sums on a number of schemes. For example, with the Emerald Scheme for cotton development—that investment was made some years ago—the average subsidy per cotton grower was around \$1 million. Another example is the Teemburra Creek Dam, which proceeded just a few years ago; that was a quarter of a million dollars per cane grower, distributed among 60 cane growers. That flows on to this whole economic and regional development argument too, that subsidies for dams or private diversion schemes cannot be justified on economic development grounds any more than any other subsidy can. Say if I wanted to build a factory to make fluffy ducks or bicycles, or whatever you want to name, there is no difference between what I would be proposing there and what, say, a consortium of irrigators would be proposing in terms of water resource infrastructure projects.

There are some materials in the submission, but I have brought along half a dozen copies of this, which are perhaps easier to read, on the whole question of subsidised water resources development in Queensland and the work that we have been doing through the National Competition Council to try to enforce agreed policy commitments in both the COAG water resources policy and national competition policy. There are issues about the competitiveness of Australian industries. I have mentioned briefly the competitive neutrality issues in state-owned enterprises. Forests is an example I know well, but I would venture to suggest also in the energy and minerals sector—or energy sector at least—that government subsidies do distort markets. This has been recognised in a recently released report—it was actually written some time ago—prepared by KPMG on the competitive position of the Victorian Forests Act. They supported our conclusion that there was unfair competition in timber in Victoria and that it was affecting investment patterns not only in private forestry but also in substitutes such as concrete and steel. Internationally, this is also an issue, and I firmly believe that Australia needs to start raising these issues in the World Trade Organisation.

In terms of water resources policy, Australia is in a pretty good position, with a very sound national policy framework in water reforms. It now can go into the international arena and start pressing for those same reforms. If we do not, then we risk continuing subsidies to water resources infrastructure internationally in places like China, the Mekong Valley, South Africa, India, the Middle East and South America, all of which are effectively undercutting our agricultural markets. I think it is very important that, in the World Trade Organisation arena, we do not just focus on direct agricultural subsidies. We need to focus also on input subsidies, and a major one there that I think Australia can hold its head up reasonably high on is water resources policy. If we started pushing for an international equivalent, if you like, of a COAG water resources policy, that would be an extremely positive move.

A further issue is in prices oversight of government trading enterprises and pricing policy. I think all too many states are ignoring the opportunities here. It is not an obligation under the national competition policy, but it is stated that the states would consider setting up sources of independent prices oversight. New South Wales has a pricing tribunal. Similarly, I think that ought to apply in other states and that they need to specifically look at government agencies involved in natural resources and energy.

I have made some points about competitive neutrality. I have gone into some detail on that in my submission. There are also issues of structural reform of public monopolies—in particular, the need to separate out the regulatory and management responsibilities from operational responsibilities. In Victoria, for example, we have rural water authorities run by irrigators who set policy, effectively, on environmental flows and those sorts of issues. That is akin to the fox looking after the chooks, and we do not like it. It is not consistent with national competition policy.

Legislation reviews are being undertaken, but I will not go into that in any detail. There are a couple of other issues. One is access and use rights, or property rights, if you like, in natural resources. We are very concerned about trends to entrench existing allocations to whatever natural resource we are talking about—be they fisheries quotas, timber rights or licences and so on or water rights—as permanent property rights. We do not think that is desirable for a number of reasons.

When we deal with natural resources, we are dealing with chaotic systems with very strong ecological interactions, and we are also dealing with highly uncertain science. I believe that, as a result, we need adaptive property rights regimes which allow us to monitor changes over time and make adjustments to the property rights regime as appropriate.

I have set out some arguments there. We need to do that, otherwise state governments and in some cases—for example, in Commonwealth fisheries—the Commonwealth will incur big financial liabilities as time goes on. There are also contingencies such as the collapse of a fish stock or a massive fire destroying timber resources in a particular region and so on, all of which highlight the need to be adaptive in your management of natural resource property rights.

There are issues of accessing information, or public accountability, as we move towards more corporatisation and privatisation. Some areas I do think need to remain in the public domain. One example was a request some time ago through freedom of information

arrangements in Victoria for financial reporting information on the Victorian forestry agency—basically, the forestry division within the Victorian Department of Natural Resources and Environment. To cut a long story short, that request was denied on the basis that that information was cabinet-in-confidence. It was not even commercial-in-confidence.

If you are a farmer, you may want to take action through the ACCC against the predatory pricing practices of a state agency, for example—or it might be something totally different; it might be Rotaloo; I know Rotaloo, the composting toilet manufacturers, have a problem with the monopoly that regional water authorities have with the supply of sewage services—but you cannot take action unless you can prove your case. If there is nothing in the public domain, you cannot proceed to take action. That, to me, is uncompetitive behaviour.

CHAIR—Will you be finished soon?

Mr Fisher—That will do. I have covered the lot.

Senator McGAURAN—I agree with you that water is a worldwide issue and that water is gold now in relation to its conservation, incorporated with environmental concerns. Are you linking the case that you have put with competition policy insomuch as we should start charging, say, the cotton farmers, who use the most water, the full price? Is that what you are asking?

Mr Fisher—In defence of the cotton farmers, they do not use the most water—not by farm basis or throughout the Murray-Darling Basin or throughout Australia. It is actually dairying and rice production that take up the bulk. But, yes, I am asking that. I do recognise there are some details which need to be worked through—like what component of the historic debt, if any, ought to be carried forward to the current generation or whether it should be written off. These are very serious issues which need resolution. I tend to think there is a middle way.

If you were to put the Hume Dam, for example, on the market, I am sure there would be a value placed on it. It may not cover your historic debt, but there would be a value on it. I think that is probably, at least in theory, a better way to go than just to automatically write off debt. Similarly, with the sale of water authorities in New South Wales, they are given away. There is no competitive market for them, and I think that is a bit rough. They are actually given away with a dowry. I do strongly support full cost pricing, given those reservations.

More importantly, with new schemes—I think we have made enough mistakes in the past and we are still carrying the debt for most of them; the Snowy Scheme is one—the COAG water resources policy is pretty explicit. It says that all new schemes must be both economically viable and ecologically sustainable. There is a bit of a trade-off here too: you can increase the yield from a dam and bring down the unit price of the water such that it may not even require a subsidy, but you will compromise the environment in the river—the riverine ecology and the estuarine ecology—as a result. There are thresholds which can be pretty well identified on that.

By and large, I think it means no subsidies for new schemes. If you want new schemes, I think the days of large-scale dam building are over. It has to be private diversions that are pumped out of the river and put into off-river storage. Those things already operate in the northern part of the Murray-Darling Basin. There do not seem to be too many barriers to private investment there. It is just that I think people will always lobby for the big schemes that improve the security of supply and so forth if the government can do the large part of the financing for that. I do not support that.

Senator McGAURAN—Thank you. That extrapolates into the coal industry. I notice you have it in your pamphlet here: full cost pricing.

Mr Fisher—Could I say something about coal. I heard some time ago that brown coal in Victoria is sold at something like quarter of a cent a tonne. There are other issues in energy like the cross-subsidies between large urban centres and far-flung rural areas. There are equity issues here too, but if you are going to subsidise people through a community service obligation for living in the bush, for being pensioners or whatever, I would rather see them given the money and let the market look after it. That would be preferable to just propping up infrastructure to take power enormous distances at vast expense and then hiding that expense in the overall bill for masses of people. I would suspect that many renewable technologies might stack up well in those areas if you did not have those subsidies.

You can add to that the diesel rebate. It is a bit ridiculous to be subsidising diesel to remote areas when solar may well be cheaper. Who knows? Once you start factoring in all of the costs, you have got a much better chance of getting an outcome which is, on balance, better for the environment.

CHAIR—So it would be fair to say that you believe in national competition policy in the sense that what you want to see is genuine competition and proper transparency of all pricing, particularly water pricing.

Mr Fisher—Absolutely.

CHAIR—Would that be a fair representation of what you are saying?

Mr Fisher—Absolutely. And might I just say that there is something on the Commonwealth agenda in this regard. The land and water resources audit was asked by the then minister for primary industries to look at opportunities or guidelines for Commonwealth funding to support new water infrastructure projects. I think that flies in the face of the water reform agenda and national competition policy. If the Commonwealth were to do that, to have a sugar package mark 2, or whatever, it could hardly withhold funds from states which are not complying with the water reform agenda. I believe Queensland is one of those states, just recently identified by the NCC. It would be the height of hypocrisy to deny Queensland funds and then give them through something like a sugar package mark 2. It just cannot happen. The Commonwealth has to be accountable for its own policies, basically.

CHAIR—Thank you. This concludes the committee's proceedings. On behalf of the committee, I thank all witnesses who have given evidence and I thank all staff. I thank Hansard for their services and my other Senate colleague for coming out of a sick bed.

Committee adjourned at 3.37 p.m.

